

**IV. COMMITTEE ACTIONS AND FILINGS OF  
THE PARTIES LEADING UP TO THE SEP-  
TEMBER EVIDENTIARY HEARINGS**

**b. Ongoing Discovery**



CLAIRE McCASKILL, MISSOURI, CHAIRMAN  
 BRIAN G. HATCH, UTAH, VICE CHAIRMAN

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 JAMES E. RISH, IDAHO

## United States Senate

SENATE IMPEACHMENT  
 TRIAL COMMITTEE

WASHINGTON, DC 20510-6326

### MEMORANDUM FOR THE RECORD

This memorandum will detail the extensive efforts of the Committee and its staff to obtain relevant documents from the Department of Justice (Department) on behalf of Judge Porteous.

On June 27, 2010, Judge Porteous filed a motion requesting the Committee's assistance in securing discovery from the Department. At the request of Committee staff, Judge Porteous submitted a formal request to the Department in writing on June 30. Committee staff contacted the Department's Office of Legislative Affairs and provided copies of the letter and the motion on July 7. On July 19, the Department declined to provide Judge Porteous with any of the documents he had requested, encouraging him to obtain such documents from the House of Representatives or the Senate.

Committee staff again contacted the Department and a meeting was arranged to discuss the production of documents to Judge Porteous. On July 30, Committee staff and Senate Legal Counsel met with representatives of the Department's Office of Legislative Affairs, the Criminal Division's Public Integrity Section, the FBI, and the U.S. Attorney's Office for the Eastern District of Louisiana. At the conclusion of that meeting, the Department agreed to produce certain documents from both the "Wrinkled Robe" investigation and the separate investigation of Judge Porteous. Committee staff was asked to identify additional documents that the Committee believed should be turned over to Judge Porteous through use of the Porteous investigation grand jury subpoena log. The Department provided Committee staff with the grand jury subpoena log on August 2, noting that "[w]e understand that our disclosure of this document to the Senate is permitted by the terms of Judge [W. Eugene] Davis's [Limited Disclosure] order of May 27, 2009."

With due notice, on August 11, Committee staff hosted a conference call with parties' counsel regarding Judge Porteous's motion for assistance. Committee staff briefly described to counsel the Committee staff's communications with the Department and offered continued assistance as an intermediary between Judge Porteous's counsel and the Department. Committee staff also forwarded the grand jury subpoena log to the parties and requested that Judge Porteous's counsel narrow his list of requests to the Department. A narrowed list was provided to Committee staff on August 17.

After review and modification by Committee staff, the requests went informally to the Department via e-mail on August 19. Committee staff asked the Department to work on these narrowed requests in anticipation of a formal letter from the Chairman. This letter, requesting both documents on the grand jury subpoena log and additional documents, was sent on August 25. The letter requested the documents no later than September 1. As a part of this request, the Committee asked for documents related to the Department's decision not to prosecute Judge Porteous. The Department declined this portion of the request, despite having provided such documents in previous impeachment proceedings.

On September 1, the Department's Office of Legislative Affairs contacted Committee staff and indicated that it did not believe that Judge Davis's May 27, 2009 Limited Disclosure order gave it the authority to produce grand jury materials to the Senate. The Department further informed Committee staff that it would not produce any of the requested documents, whether grand jury or not, inviting the Senate to seek the requested documents from the House of Representatives.

Chairman McCaskill's office followed up with the Department on September 2 and received confirmation that the Department would begin producing the requested documents to the Committee. Pursuant to a request by

2000

CLAIRE McCASKILL, MISSOURI, CHAIRMAN  
ORRIN G. HATCH, UTAH, VICE CHAIRMAN  
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JIM DUNNIT, SOUTH CAROLINA  
JOHN BARRASSO, WYOMING  
ROGER F. WICKER, MISSISSIPPI  
MIKE JOHANNIS, NEBRASKA  
JAMES E. RISCH, IDAHO

## United States Senate

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TRIAL COMMITTEE

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Senate Legal Counsel, the Department sought a court order granting the Senate access to the requested grand jury materials.

On August 28, Judge Porteous filed a motion to subpoena Daniel A. Petalas, Esq. and Peter S. Ainsworth, Esq., of the Department's Public Integrity Section, to testify before the Committee in the evidentiary hearings. The Department requested the opportunity to address the Committee before any subpoenas were authorized. The Department was provided the opportunity to respond to Judge Porteous's motion to subpoena Petalas and Ainsworth in writing, which it did on September 3.

On September 3, the Committee received the first document responsive to its requests in a redacted format. Committee staff requested that the Department unredact the document and produce it to the Committee in the same form it was produced to the Fifth Circuit Special Investigatory Committee. The Department did so on September 7.

The Department made further productions responsive to the Committee's request on September 7, 8, 10, 11, and 12. On September 10, the Department sent Chairman McCaskill a letter clarifying the Department's position regarding the production and use of the documents turned over to Committee staff.

While eventually extensive, the Department's productions were not fully responsive to the Committee's requests prior to the Committee's evidentiary hearings.

Committee staff requested, and was granted, an in camera review of remaining Porteous investigation documents on September 20. Following the in camera review, Committee staff requested unredacted copies of various FBI interview summaries (referred to throughout this record as '302s') from the Department's investigation of Judge Porteous. The Department's Office of Legislative Affairs provided documents responsive to this request on September 20 and on October 29.



Erin P. Johnson

Chief Clerk

2001

Subpoena Log

#	Addressed to:	Contact Listed on Return	Date Served	Records	Account Numbers	Due Date	Records Received
1A	Beau Rivage	Carol Brand 228.386.7130	8/31/99	X		9/16/99	10/7/99
1	Caesar's Palace	Thomas Smock, VP & Associate General Counsel 702.731.3110	12/8/99	X		?	1/4/00
2	American Express Company	Ed Garabedian 917.639.8380	3/3/00	X	Marcotte - 92005, 94001; Amato & Creely - 01003, 02001, 03009; Gardner - 11001, 41009, 42007; Creely - 43007, 44005, 61000, 62008; Forstall - 62005, 63003	3/23/00	?
3	First USA Bank	Paul Hall 614.248.3322	3/3/00	X	G.T. Porteous 8333 & Jane Windhorst 4657	3/23/00	8/1/00
4	Chase Manhattan	Jocelyn Moore 212.552.0934	3/3/00	X	Carmella 5091	3/23/00	3/23/00
5	Capitol One Bank		3/3/00	X		3/23/00	3/28/00
6	Citibank	Karla Randall 605.331.1567	3/3/00	X	G.T. Porteous 2338	3/23/00	3/17/00
7	Trans Union	Cindy Paulausky 312.258.1717 ext. 3978	6/9/00	X	G.T., Michael, Thomas, Tim & Carmella Porteous, Amato (2), Creely, Levenson, Forstall, Gardner	7/14/00	7/14/00
8	Experian Information Solutions, Inc.	Mina Strawther 800.435.1903	6/9/00	X	Same as Trans Union.	7/14/00	6/23/00

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JC203004

# 2002

#	Addressed to:	Contact Listed on Return	Date Served	Records	Account Numbers	Due Date	Records Received
9	Equifax	Al Cole 770.375.2744	6/9/00	X	Same as Trans Union.	7/14/00	6/23/00
10	Wyndham Emerald Plaza	Bharathia Jeyalingam	6/9/00	X		7/14/00	?
11	Ritz Carlton Hotel San Francisco	Brad Hayden	6/9/00	X		7/14/00	7/12/00
12	Adam's Mark Hotel	Joe Ransweiler	6/9/00	X		7/14/00	7/11/00
13	New York/New York Hotel and Casino	Yvette Harris	6/9/00	X		7/14/00	7/13/00
14	MGM Grand Hotel and Casino	Thomas A. Pterman	6/9/00	X		7/14/00	7/7/00
15	Luxor Casino	Lynn Whitaker	6/9/00	X		7/14/00	7/6/00
16	Golden Nugget Hotel/Casino	Joanne Beckett	6/9/00	X		7/14/00	7/10/00
17	Desert Inn Hotel/Casino	Paul Steenblock	6/9/00	X		7/14/00	7/24/00
18	Southwest Airlines	Lisa Stewart/Mark Edwards	6/9/00	X		7/14/00	6/27/00
19	Delta Air Incorporated	Walter Brill	6/9/00	X		7/14/00	8/28/00
20	Continental Airlines	Micki Brown	6/9/00	X		7/14/00	?
21	Bahamas Air	Oliver Hutchinson	6/9/00	X		7/14/00	7/13/00
22	American Airlines	Sara Cooks	6/9/00	X		7/14/00	6/30/00
23A	BellSouth Telecommunications	Lucille Smith 770.492.4560	6/12/00	X		7/14/00	7/18/00
23	Bank of Louisiana	Bob Buss 504.889.9421	4/17/01	X	G.T. Porteous 2893, 2890	5/24/01	5/21/01
24	American Express Travel Related Services, Inc.	Ed Garabedian 917.639.8350	4/17/01	X	G.T. Porteous 92007	5/24/01	?
25	Citibank	Ellen B. Hctzler 302.683.4091 & Karla Randall 605.331.1567	4/17/01	X	G.T. Porteous Travelers 0642 & Citibank 9366, 0426	5/24/01	5/7/01 & 5/17/01
26	First USA	Judy Berry Stock 614.248.3592	4/17/01	X	G.T. Porteous 711, 4833	5/24/01	5/1/01
27	MBNA	Todd Windsor 302.453.9930	4/17/01	X	G.T. Porteous 1290	5/24/01	5/17/01

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JC203005

# 2003

#	Addressed to:	Contact Listed on Return	Date Served	Records	Account Numbers	Due Date	Records Received
28	Bank One Services	Latanya Green 317.321.7742	4/17/01	X	G.T./Carmella Bank Account	5/24/01	8/9/01
29	Hibernia National Bank	Jo Ann Kennedy 504.533.3839 *with certification	6/24/02	X	Danos Bank Account	7/11/02	7/24/02 & 8/20/02
30	Cinbank (South Dakota), N.A.	Karla Randall 605.331.7117	6/24/02	X	Carmella 9138	8/2/02	7/24/02
31	Discover Financial Services, Inc.	Shomona Lofland 302.323.7569	6/24/02	X	Carmella 9489	8/2/02	7/12/02
32	Fidelity Investments	Peter Zeigler 617.392.2841	6/24/02	X		8/2/02	7/31/02
33	Delta Airlines	Janet Kidd 404.715.4051	6/24/02	X		8/2/02	7/1/02
34	United Airlines	Thomas Campuzano 847.700.7393	6/24/02	X		8/2/02	7/2/02
35	Treasure Chest	Fran Olivier 504.443.8020	6/24/02	X		8/2/02	7/31/02
36	Isle of Capri	William Kilduff VP & General Manager 228.436.7853	6/24/02	X		8/2/02	7/10/02
37	Beau Rivage	Carol Brand VP & General Counsel 228.386.7128	6/24/02	X		8/2/02	?
38	Casino Magic - Bay St. Louis, MS	Todd Raziano General Manager 228.467.9257	6/24/02	X		8/2/02	7/26/02
39	Grand Casinos of Mississippi - Biloxi	Anthony Del Vescovo 228.604.5027	6/24/02	X		8/2/02	09/4/02
40	Grand Casinos of Mississippi - Gulfport	Joe Billhimer President and General Manager	6/24/02	X		8/2/02	?
41	Jazz Casino Company, LLC (Harrah's New Orleans)	Tammy A. Moret 504.533.6000	6/24/02	X		8/2/02	7/30/02
42	MBNA America Bank, N.A.	Todd Windsor 302.453.9930	6/24/02	X	Creely 5816, 1171 & Carmella 6478, 5608, 7784	8/2/02	7/26/02

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JC203006

2004

#	Addressed to:	Contact Listed on Return	Date Served	Records	Account Numbers	Due Date	Records Received
43	Fidelity Homestead Association	Allain Andry (Law Firm) 504.581.6427 FHA - George Binder - taking the place of David Giffin 504.569.3508	10/21/02	X	G.T./Carmella Bank Account	11/14/02	?
44	Trips Unlimited, Inc.	Merina Sanders 504.340.8747		X		03/13/03	3/10/03
45	Trans Union	Cindy Hennessy 312.985.3978	02/24/03	X	Porteous, Danos, Creely, Griffen, and Acy	03/13/03	02/28/03
46	Regions Bank	Marsha Walsh 504.584.1318		X	Creely and Creely & Amato	03/13/03	4/2/03
47	Omni Bank	Rose Ellison 504.833.2900 ext.106		X	Creely, Creely & Amato, and Levenson	03/13/03	6/5/03
48	Hibernia National Bank	Jo Ann Kennedy 504.533.3839	02/24/03	X	Creely, Creely & Amato	03/13/03	04/21/03
49	Gulf Coast Bank and Trust	Tracy Caldwell 504.841.7354		X	Creely and Creely & Amato	03/13/03	fbi
50	First USA Bank	Teri Richardson 614.776.7193	02/24/03	X	Danos 9638	03/13/03	03/07/03
51	Caesars Palace Lake Tahoe Park Place Entertainment	Albina Lovasz 702.699.5208	02/24/03	X		03/13/03	04/17/03
52	Citibank (South Dakota)	Gina 605.331.7459	02/24/03	X	Danos 9654, 3315, 1287, 9709	03/13/03	03/12/03
53	Boomtown	John Yaeger 504.364.8788		X		03/13/03	fbi
54	Citi Financial Mortgage Inc.		03/07/03	X	Creely	03/27/03	04/07/03
55	Regions Bank	Marsha Walsh 504.584.1318	03/19/03	X	Creely, Creely & Amato, Smith	04/03/03	4/7/03
56	Bank of America	Sylvia Avila 602.597.3443	04/16/03	X	Griffin	05/08/03	04/30/03

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JC203007



#	Addressed to:	Contact Listed on Return	Date Served	Records	Account Numbers	Due Date	Records Received
57	Citibank (South Dakota)	Beverly Fenton 605.331.7426	04/16/03	X	Griffin & Aey	05/08/03	05/07/03
58	Capitol One Bank		04/16/03	X	Griffin & Aey	05/08/03	05/16/03
59	AllTel - Southeast Region	Patti Nichols 813.630.3803	04/16/03	X	Porteous	05/08/03	fbi
60	MBNA America Bank	Todd Windsor 302.453.9930	04/16/03	X	Griffin	05/08/03	5/22/03
61	Regions Bank	Marsha Walsh 504.584.1318	04/16/03	X	Porteous	05/08/03	5/22/03
62	Chrysler Finance Corporation	800.365.3488	04/16/03	X	Porteous	05/08/03	4/18/03
63	Bank One	Latanya Green	06/30/03	X	Porteous	07/17/03	7/23/03
64	Fidelity Homestead Association	Jerry Williamson Andry, Andry and Williamson 504.581.6427	06/30/03	X	Porteous	07/17/03	7/17/03
65	Dillard National Bank	Linda Ramirez 480.503.5504	06/30/03	X	Porteous	07/17/03	07/14/03
66	J.C. Penney Credit Card	Lavonne Nelson 404.845.1053	06/30/03	X	Porteous	07/17/03	8/12/03
67	Ford Motor Credit	Jennifer Fricks 800.777.3365	06/30/03	X	Porteous	07/17/03	8/7/03
68	CitiFinancial Services AFS/ACB	Elizabeth Aadland 480.449.4300, ext. 2735	06/30/03	X	Porteous	07/17/03	8/7/03
69	Capital One Bank	Subpoena Unit 804.935.8207	06/30/03	X	Porteous	07/17/03	7/22/03
70	Credit Suisse First Boston	John McDonald 212.325.7481	10/14/03	X	Danos	10/28/03	
71	Jazz Casino Company LLC (Harrah's)	Gina Calcagno 504.533.6000	10/14/03	X	Danos	10/28/03	10/27/03
72	Mardi Gras Casino Corporation (Casino Magic)	Mark Thompson 228.466.8037	10/14/03	X	Danos	10/28/03	10/21/03
73	Mellon Investor Services	Elizabeth Lumbete 201.373.7154	10/14/03	X	Danos	10/28/03	10/28/03

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JC203008

# 2006

#	Addressed to:	Contact Listed on Return	Date Served	Records	Account Numbers	Due Date	Records Received
74	Provident Financial	Shamika Middlebrook 817.417.4444 ext. 2990	10/14/03	X	Porteous	10/28/03	10/30/03
75	Fleet Credit Card Services	Joann Carpenter 215.444.7523	10/14/03	X	Porteous	10/28/03	10/31/03
76	Pershing LLC	Bonnie Bressler	10/29/03	X	Danos	11/13/03	11/4/03
77	Fidelity Homestead Association	Lauren Dean 504.569.3402	11/6/03	X	Carmella Porteous and Giardina	11/20/03	11/19/03
78	Alder Coleman & Sons		11/6/03	X	Porteous	11/20/03	
79	Rhonda Danos		12/8/03			12/18/03	Did Not Testify Took the 5th
80	Jolene Acy		12/8/03			12/18/03	Did Not Testify Excused
81	Diane Lamulle		12/8/03			12/18/03	Did Not Testify Excused
82	Claude Lightfoot	Joelle Evans 504.680.6050	02/04/04	X	Carmella and Thomas Porteous,	2/04/04	2/26/04 & 6/29/04
83	BellSouth Telecommunications		03/03/04	X	Robert Creely Rhonda Danos	03/25/04	
84	The Commodore Companies		03/03/04	X	Porteous, Carmella, and Danos	03/25/04	
85	Krewe of Endymion	Charles Bruneau, Jr. 504.288.1200	03/03/04	X	Porteous Levenson	03/25/04	3/24/04
86	Lamarque Jeep/Chrysler/Plymouth LLC		03/03/04	X	Carmella, Porteous, and Thomas Porteous	03/25/04	
87	Celco Partnership/Verizon Wireless		03/03/04	X	Jolene Acy	03/25/04	
88	Vacations at Sea		03/03/04	X	Carmella, Porteous, Danos	03/03/04	

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JC203009

2007

#	Addressed to:	Contact Listed on Return	Date Served	Records	Account Numbers	Due Date	Records Received
89	Rada's World of Travel		03/03/04	X	Carmella, Porteous, Danos	03/25/04	
90	Capital One Bank		03/03/04	X	Catherine Carmella Porteous	03/25/04	3/19/04
91	State Farm Insurance	Richard C. Simmons 504.836.6500	04/14/04	X	Porteous Carmella	05/06/04	5/13/04
92	Trans Union Corporation	Cindy Hennessy 312.985.3978	04/14/04	X	Stacey Rooney	05/06/04	4/30/04
93	Casino Magic	Ronald Arrignes, Jr. 228.467.5426	04/29/04	X	Danos	05/20/04	5/14/04
94	Stacey Rooney		05/03/04			05/13/04	Testify only
95	Mark Rooney		05/03/04			05/13/04	Testify only
96	Bank One Services Corp		05/10/04	X	Porteous Carmella	05/27/04	
97	Hibernia National Bank	Anthony Flaherty 504.533.3472	05/10/04	X	Danos	05/27/04	6/03/04
98	Fidelity Homestead Association		5/21/04	X	Porteous Carmella	6/10/04	6/10/04
99	Adler Coleman & Sons, Inc.		5/21/04	X	Creely	6/10/04	
100	Fleet Credit Card Services		5/21/04	X	Porteous Carmella	6/10/04	
101	Louisiana Wildlife and Fisheries	Janis Landry 225.765.2881	6/15/04	X	Porteous Creely, Amato Levenson, Forstall and Gardner	7/01/04	6/21/04
102	Texas Park and Wildlife Department		6/15/04	X	Porteous Creely, Amato Levenson, Forstall and Gardner	7/01/04	7/13/04

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JC203010

2008

#	Addressed to:	Contact Listed on Return	Date Served	Records	Account Numbers	Due Date	Records Received
103	BellSouth Telecommunications	404.986.5630	7/13/04	X	Porteous	7/29/04	9/27/04
104	AllTel - South Region	Patti Nicholas 877.500.6054	7/13/04	X	Porteous	7/29/04	no info. on this record 7/15/04
105	American Express	Gerard Donito 954.503.7001 ext. 65338	8/09/04	X	Creely Amato	8/26/04	8/25/04
106	Jerome M. Winsberg, Esq.	Claude Lightfoot, Esq.	8/02/04	N/A		8/19/04	Testified in Grand Jury
107	Capital One Bank		3/22/06	X	Gabriel and Carmella Porteous	4/07/06	
108	Capital One Bank		3/22/06	X	Gabriel and Carmella Porteous	4/07/06	
109	Capital One Bank		3/22/06	X	Gabriel and Carmella Porteous	4/07/06	
110	Capital One Bank		3/22/06	X	Gabriel and Carmella Porteous	4/07/06	
111	Capital One Bank		3/22/06	X	Gabriel and Carmella Porteous	4/07/06	
112	Bank of America, N.A. dba Fleet Bank		3/22/06	X	Gabriel and Carmella Porteous	4/07/06	
			3/22/06	X	Gabriel and Carmella Porteous	4/07/06	

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JC203011

# 2009

#	Addressed to:	Contact Listed on Return	Date Served	Records	Account Numbers	Due Date	Records Received
113	Treasure Chest		3/22/06	X	Gabriel and Carmella Porteous	4/07/06	
114	Beau Rivage		3/22/06	X	Gabriel and Carmella Porteous	4/07/06	3/20/06
115	Corperation Sves. Co. c/o Grand Casino of Gulfport		3/22/06	X	Gabriel and Carmella Porteous	4/07/06	
116	Corperation Sves. Co. c/o Grand Casino of Biloxi		3/22/06	X	Gabriel and Carmella Porteous	4/07/06	
117	Corporations Sves. Co. c/o Jazz Casino Company, LLC dba Harrah's		3/27/06	X	Gabriel and Carmella Porteous	4/07/06	
118	Whitney National Bank		4/06/06	X	Amato and Creely	4/28/06	
119	File - (1/1/2006)						
120	Brian C. C. P. Morgan						

Last Updated 03/23/06

JC203012

2010



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August 17, 2010

**VIA EMAIL AND COURIER**

The Honorable Claire C. McCaskill  
The Honorable Orrin G. Hatch  
Senate Impeachment Trial Committee  
United States Senate  
Russell Senate Office Building, Room  
B-34A  
Washington, D.C. 20002

Re: *Impeachment of Judge G. Thomas Porteous, Jr.*

Dear Chairman McCaskill and Vice Chairman Hatch:

This letter responds to a request from the Staff of the Senate Impeachment Trial Committee (the "Committee") during a teleconference on August 11, 2010, with counsel for Judge Porteous and the House. The Committee Staff asked counsel for the defense to identify those specific Department of Justice (the "Department" or "DOJ") documents that the defense believes have not been produced, either in whole or in part, and which the defense still seeks.

Background

On June 27, 2010, Judge Porteous submitted to the Committee a Motion for Assistance in Securing Discovery from the Department of Justice (including the Federal Bureau of Investigation ("FBI")). (See June 27, 2010 Motion, attached as Exhibit I.) In that Motion, Judge Porteous sought the Committee's assistance in obtaining the following eight categories of documents from the Department:

- a. All FBI 302 forms and field reports or memorandum relating to the FBI's investigation of Judge Porteous in connection with his nomination and confirmation to the federal bench in 1994.
- b. All material collected by the FBI and/or the Department during its investigation of Judge Porteous in connection to his nomination and confirmation to the federal bench in 1994.

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Bryan Cave LLP

- c. All material collected in the course of the “Wrinkled Robe” investigation to the extent the material references or relates to Judge Porteous.
- d. All material from the “Wrinkled Robe” investigation that references or relates to the setting, modifying, and/or splitting of bail bonds.
- e. All material from the “Wrinkled Robe” investigation that references or relates to any of the following persons: Jacob Amato, Robert Creely, Louis Marcotte, or Lori Marcotte.
- f. All material from the “Wrinkled Robe” investigation that references or relates to gifts, money, or other items of value received by judges, magistrates, or other judicial officers in the Jefferson Parish Courthouse.
- g. All Department of Justice “Prosecution Memorandums” that reference or relate to Judge Porteous.
- h. All Department of Justice “Requests for Authorizations to Indict” individuals in connection to the “Wrinkled Robe” investigation.

Judge Porteous noted in his Motion that his request for assistance is consistent with such assistance afforded the accused in the Hastings and Nixon impeachment proceedings – where the Senate sought and obtained discovery from third-party sources, including the DOJ. Judge Porteous’s Motion also requested the immediate assistance of the Senate in acquiring these files, given the limited time before the scheduled start of the evidentiary hearing. Unlike the Hastings and Nixon cases, where the defense sought information that was not produced at trial, Judge Porteous is requesting the same information that was available to those former judges in order to present a full defense.

On June 30, 2010, at the request of the Committee, Judge Porteous submitted a letter to the Department requesting this same material. (*See* June 30, 2010 letter, attached as Exhibit 2.) On July 19, 2010, the Department responded by refusing to provide any additional material directly to Judge Porteous and stating that “it is the responsibility of Congress” to provide the material requested. (*See* July 19, 2010 Letter, attached as Exhibit 3.) The letter further stated that the Department had provided 804 pages of documents “to the House Committee in 2009 in connection with the impeachment proceedings in that body.” (*Id.*) The Department also noted that it had made a considerably larger number of pages of documents – “approximately 12,378 pages of documents” – available in connection with “its referral to the Fifth Circuit.” (*Id.*) The Department specifically declined to make available “internal memoranda” relating to the prosecution decisions concerning Judge Porteous and the “Wrinkled Robe” investigations. (*Id.*)

#### The Reason for this Renewed Request

On August 11, 2010, the Committee Staff held a teleconference with counsel for the defense and the House. During that teleconference, the Committee Staff indicated that it had been in contact with the Department regarding the defense’s requests. The Committee Staff explained that

Department representatives had informed them that, when Judge Porteous became a target of the Department's investigation, the Department segregated the Porteous-related material and sent it to the Department's Public Integrity Section in Washington, which maintained an investigative file separate from that of the broader "Wrinkled Robe" investigation. Committee Staff further stated that the Department representatives had indicated that the Department was unwilling to provide documents from these files to the defense, although they would be willing to provide such materials to the Committee, if requested.

During this same teleconference, House Impeachment counsel conceded that, on occasion, they had obtained documents from the Department which were culled from the full set of documents maintained by the Department's Public Integrity Section related to its investigation of Judge Porteous. The Committee Staff, however, indicated that they were unwilling to request from the Department all of the records related to the Department's investigation of Judge Porteous because of the volume of such materials and the Committee's lack of the capacity to house or store the full set of documents that the Department had collected.

Instead, the Committee Staff provided the defense with a Grand Jury Subpoena Log, which appears to list various subpoenas issued by the Department during its investigation of Judge Porteous. The Committee Staff suggested that, utilizing that log, the defense might be able to narrow its requests for documents. The defense was asked to submit this letter detailing the specific information that the defense believes has not been provided or which is still sought from the Department.

The Department's refusal to entertain directly Judge Porteous's requests is unreasonable and presents a substantial barrier to a fair trial. Obviously, documents collected by the Department during its investigation of Judge Porteous are relevant and discoverable. Indeed, they may be exculpatory since the investigation led to a declination to seek any prosecution of Judge Porteous. As such, it is essential to fundamental due process that the Department produce all non-privileged materials in its possession that were collected during its investigation of Judge Porteous or that otherwise pertain to him.

The Committee's request that the defense identify specific documents that have not been produced asks for the impossible. We cannot know what we may not have. This task is made even more difficult by the House's refusal to provide Judge Porteous with a list of all of the documents that it received from the Department. The House staff has defended its actions by claiming that, in a criminal prosecution, the government would control what documents from its files it decided were relevant to the defense. While that may be true in a criminal prosecution, both the House counsel and the Committee have made clear that the Impeachment trial is not a criminal proceeding. The House cannot have it both ways, depriving Judge Porteous of the clear protections that he would enjoy if this were a criminal proceeding while denying to him proper discovery on the ground that an impeachment trial is analogous to a criminal proceeding. Moreover, a court would not require the defense to identify documents that have not been disclosed, but would rather order categories of disclosure for obviously material evidence. In the end, principles of basic fairness warrant such disclosure. As already shown in the depositions, limited discovery has produced a plethora of



August 17, 2010

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Bryan Cave LLP

contradictions of the House's account of critical events and statements. The requested Department documents constitute some of the most reliable records of the underlying allegations against Judge Porteous.

#### Judge Porteous's Specific Requests

Nonetheless, in an effort to obtain the bare minimum discovery required under fairness and due process, Judge Porteous requests that the Committee obtain from the Department, and provide to the defense, at least the following specific categories of documents:

1. All Form FD-302 reports (or FBI field memoranda) (including drafts), in entirely unredacted form, generated by the FBI during its criminal investigation of Judge Porteous and its investigation of Judge Porteous in connection with his nomination and confirmation to the federal bench. For purposes of narrowing its request, the defense is willing to forego its request for all 302 Reports generated by the FBI during the "Wrinkled Robe" investigation. The defense notes, however, that in the Nixon impeachment proceedings the Department provided draft 302 Reports to the Senate. (See August 1, 1989 Letter from Department of Justice, attached as Exhibit 4.) To assist the Committee and the Department, a list of all 302 Reports previously received by the defense (with varying levels of redaction) is attached. (See list of 302 Reports, attached as Exhibit 5.)
2. An unredacted version of House Exhibit 69(b), which appears to include 309 pages of documents produced by the Department to the House on or about June 25, 2009. The cover letter to this exhibit is attached as Exhibit 6. This document contains a number of 302 Reports, many of which contain redactions.
3. An unredacted version of a the document bates labeled PORT000000721, and attached to this letter as Exhibit 7.
4. An unredacted version of an FBI 302 Report dated December 18, 2002, regarding an interview with Norman Stotts. The version of this document previously produced to the defense appears to omit pages and includes extensive redactions. The redacted version of this document is attached as Exhibit 8.
5. An unredacted version of an FBI 302 Report transcribed on or about March 30 2004, regarding an interview with Louis Marcotte. A redacted version of this document, which appears to omit certain pages, was produced to the defense as HP Exhibit 72(a) and is attached as Exhibit 9.
6. An unredacted version of House Exhibit 69(e), which appears to include 23 pages of documents produced by the Department to the House of Representatives on or about October 23, 2009. The cover letter to this exhibit is attached as Exhibit 10. This document contains numerous 302 Reports, which contain redactions.

7. All Department of Justice "Prosecution Memorandums" that reference or relate to Judge Porteous. The Department indicated in its July 19, 2010 letter that it would decline to provide this type of material directly to Judge Porteous. The defense notes that, in the Nixon impeachment proceedings, the Department provided prosecution memoranda to the Senate. (See August 1, 1989 Letter from Department of Justice, attached as Exhibit 4.)
8. All Department of Justice "Requests for Authorizations to Indict" that reference or relate to Judge Porteous. The defense notes that, in the Nixon impeachment proceedings, the Department provided "Requests for Authorizations to Indict" to the Senate. (See August 1, 1989 Letter from Department of Justice, attached as Exhibit 4.)
9. All grand jury testimony taken or collected by the Department during its investigation of Judge Porteous, not previously provided to the defense. The defense has received only the following grand jury transcripts from the House:
  - Ronald Bodenheimer – April 22, 2004
  - Claude Lightfoot – August 19, 2004, September 9, 2004, November 4, 2004, September 24, 2009, and October 29, 2007
  - Warren Forestall – March 17, 2006
  - Robert Creely – March 17, 2006
  - Donald Gardner – March 31, 2006
  - Rhonda Danos – March 31, 2006, and August 18, 2006
  - Leonard Levinson – April 7, 2006
  - Joseph Mole – May 5, 2006
  - Jacob Amato – May 5, 2006
10. Any 302 Reports for Robert Rees or Bruce Netterville generated in either the Wrinkled Robe or Judge Porteous investigations. The defense has not received any 302 Reports related to these two individuals.
11. An unredacted version of the Affidavit in Support of the Application for an Order Authorizing the Interception of Wire Communications, dated August 27, 2001. Judge Porteous has been provided with a redacted copy of this document.
12. Any orders issued by any court in response to the Affidavit in Support of the Application for an Order Authorizing the Interception of Wire Communications, dated August 27, 2001
13. All records received by the Department in response to its subpoena to Beau Rivage (request #1A), as listed on the Grand Jury Subpoena Log. According to the Grand Jury Subpoena Log, the Department received records related to this subpoena on October 7, 1999.
14. All records received by the Department in response to its subpoena to Treasure Chest (request #35), as listed on the Grand Jury Subpoena Log. According to the Grand Jury Subpoena Log, the Department received records related to this subpoena on July 31, 2002.

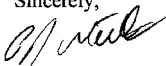
August 17, 2010  
Page 6

Bryan Cave LLP

15. All records received by the Department in response to its subpoena to Beau Rivage (request #37), as listed on the Grand Jury Subpoena Log. It is unclear when the Department received records related to this subpoena.
16. All records received by the Department in response to its subpoena to Grand Casinos of Mississippi - Gulfport (request #40), as listed on the Grand Jury Subpoena Log. It is unclear when the Department received records related to this subpoena.
17. All records received by the Department in response to its subpoena to Trips Unlimited, Inc. (request #44), as listed on the Grand Jury Subpoena Log. According to the Grand Jury Subpoena Log, the Department received records related to this subpoena on March 10, 2003.
18. All records received by the Department in response to its subpoena to Claude Lightfoot (request #82), as listed on the Grand Jury Subpoena Log. According to the Grand Jury Subpoena Log, the Department received records related to this subpoena on February 26, 2004 and June 29, 2004.
19. All records received by the Department in response to its subpoena to Treasure Chest (request #113), as listed on the Grand Jury Subpoena Log. It is unclear when the Department received records related to this subpoena.
20. All records received by the Department in response to its subpoena to Beau Rivage (request #114), as listed on the Grand Jury Subpoena Log. According to the Grand Jury Subpoena Log, the Department received records related to this subpoena on October 30, 2006.
21. An unredacted version of House Exhibit 89(b), which appears to include a five page 302 Report of Ronald Bodenheimer, and has a date of transcription of May 22, 2003. A redacted version of this document is attached as Exhibit 11.

Given that the evidentiary hearing in this matter is set to begin in less than four weeks, the defense requests the immediate production of this material. The defense reserves the right to request additional documents if necessary.

Sincerely,



P.J. Meitl

2016

# Exhibit 1

**In The Senate of the United States  
Sitting as a Court of Impeachment**

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In re: )

Impeachment of G. Thomas Porteous, Jr., )

United States District Judge for the )

Eastern District of Louisiana )

---

**JUDGE G. THOMAS PORTEOUS, JR.'S MOTION FOR ASSISTANCE IN  
SECURING DISCOVERY FROM THE DEPARTMENT OF JUSTICE**

**NOW BEFORE THE SENATE**, comes respondent, the Honorable G. Thomas Porteous, Jr., a Judge of the United States District Court for the Eastern District of Louisiana, and respectfully requests the assistance of the Senate in securing discovery materials from the United States Department of Justice. In support, Judge Porteous states the following:

1. The Federal Bureau of Investigation ("FBI"), under the supervision of the Department of Justice, was responsible for investigating Judge Porteous after President Clinton nominated him to the federal bench in 1994.

2. The FBI also investigated possible corruption at the Jefferson Parish Courthouse in Gretna, Louisiana through Operation Wrinkled Robe between approximately 1999 and 2002. As part of this investigation, the FBI investigated former state court judges, including Judge Porteous.

3. In investigating whether impeachment of Judge Porteous was appropriate, the House of Representatives (the "House") acquired certain files from the Department of Justice relating to both the investigation concerning Judge Porteous's nomination and the Wrinkled Robe investigation.

4. The articles of impeachment against Judge Porteous allege a concealment of conflicts of interest in connection with his prior service as a state judge in Louisiana. Moreover, the witnesses called by the House during its impeachment proceedings specifically raised the distinction between issues known before the confirmation and issues concealed from the Senate and its investigators. Thus, the question of what was known before Judge Porteous's confirmation is highly material to any defense at his Senate impeachment trial.

5. Many of the allegations raised in the articles of impeachment involve practices of judges in the Jefferson Parish Courthouse in the 1980s and early 1990s. As such, the practices of judges other than Judge Porteous are relevant to possible defenses, including but not limited to the view of what constituted *de minimis* gifts or services for judges.

6. The House has apparently refused to produce to Judge Porteous all documents made available to it from all sources, including the Department of Justice. The House's Special Impeachment Counsel have also refused to produce a simple listing of withheld files – as they did previously in the Hastings impeachment. This is the subject of a separate motion, which is being filed concurrently with this motion.

7. In the Hastings and Nixon impeachment trials, defense counsel for the accused requested the assistance of the United States Senate in acquiring discovery from third-party sources, such as the Department of Justice. A procedure was developed to permit discovery of Justice Department materials. In those cases, the Chairman of the Senate Impeachment Trial Committee submitted a letter to the Department of Justice requesting that it produce the requested discovery. (See Letter from Senator Wyche

Fowler, dated July 18, 1989, attached as Exhibit 1.) The Justice Department complied with these requests and produced the documentation directly to the Senate. (See Letters from James Cole, dated August 1, 1989 and August 11, 1989, attached as Exhibit 2.) Senate personnel then reviewed the materials and designated for production to counsel for the accused those materials that were deemed relevant to any article of impeachment or asserted defense.

8. Judge Porteous seeks the production of the following materials:

- a. All FBI 302 forms – both draft and completed versions – relating to the FBI's investigation of Judge Porteous in connection with his nomination and confirmation to the federal bench in 1994.
- b. All material collected by the FBI and/or the Department of Justice during its investigation of Judge Porteous in connection to his nomination and confirmation to the federal bench in 1994.
- c. All material from the Wrinkled Robe investigation that references or relates to Judge Porteous.
- d. All material from the Wrinkled Robe investigation that references or relates to the setting, modifying, and/or splitting of bail bonds.
- e. All material from the Wrinkled Robe investigation that references or relates to Jacob Amato, Robert Creely, Louis Marcotte, and Lois Marcotte
- f. All material from the Wrinkled Robe investigation that references or relates to gifts, money, or other items of value received by judges, magistrates, or other judicial officers in the Jefferson Parish Courthouse.
- g. All Department of Justice "Prosecution Memorandums" that reference or relate to Judge Porteous.
- h. All Department of Justice "Requests for Authorizations to Indict" individuals in connection to the Wrinkled Robe investigation.

9. Because new counsel has only recently been added to this case and because the evidentiary hearing in this matter is fast approaching, Judge Porteous seeks

the immediate assistance of the Senate in procuring these materials. In prior cases, defense counsel initially corresponded with the Justice Department, received correspondence in return rebuffing their requests for materials, filed motions with the Senate for assistance, and then waited for the Justice Department to comply. For example, in the case of Judge Nixon, this process took over two months – an amount of time that current defense counsel simply do not have given the impending trial schedule in this matter. Thus, in an effort to avoid unnecessary delay, Judge Porteous seeks the immediate assistance of the Senate in resolving this issue.

Alternatively, Judge Porteous suggests that, due to the truncated timeframe, that all of the requested material be produced directly to Judge Porteous and that Judge Porteous enter into an appropriate protective order regarding that material. The relevance of these categories of discovery is obvious. Judge Porteous will agree not to discuss or disclose such material absent use at the evidentiary hearing itself. Such a process would allow for an expedited review and avoid any delay of the trial.

WHEREFORE, Judge Porteous respectfully requests that the Senate implement a procedure to ensure that relevant materials from the Justice Department be made available to Judge Porteous.

Respectfully submitted,

/s/ Jonathan Turley

Jonathan Turley  
2000 H Street, N.W.  
Washington, D.C. 20052  
(202) 994-7001



2021

/s/ Daniel C. Schwartz  
Daniel C. Schwartz  
P.J. Meitl  
Daniel T. O'Connor  
BRYAN CAVE LLP  
1155 F Street, N.W., Suite 700  
Washington, D.C. 20004  
(202) 508-6000

Counsel for G. Thomas Porteous, Jr.  
United States District Court Judge for the  
Eastern District of Louisiana

Dated: June 27, 2010

2022

**CERTIFICATE OF SERVICE**

I hereby certify that on June 27, 2010, I served copies of the foregoing by electronic means on the House Managers, through counsel, at the following email addresses:

Alan Baron – [abaron@seyfarth.com](mailto:abaron@seyfarth.com)

Mark Dubester – [mark.dubester@mail.house.gov](mailto:mark.dubester@mail.house.gov)

Harold Damelin – [Harold.damelin@mail.house.gov](mailto:Harold.damelin@mail.house.gov)

Kirsten Konar – [kkonar@seyfarth.com](mailto:kkonar@seyfarth.com)

Jessica Klein – [jessica.klein@mail.house.gov](mailto:jessica.klein@mail.house.gov)

/s/ P.J. Meitl \_\_\_\_\_

2023

## **Exhibit 2**

2024



Daniel C. Schwartz  
Direct: 202-508-6025  
dschwartz@bryancave.com

June 30, 2010

**VIA EMAIL, FACSIMILE, AND FIRST-CLASS MAIL**

Ms. M. Faith Burton  
Congressional Liaison Officer  
U.S. Department of Justice,  
Office of Legislative Affairs  
Main Justice Building, Room 1145  
950 Pennsylvania Avenue, NW  
Washington, DC 20530  
Facsimile: 202-305-2643  
Email: faith.burton@usdoj.gov

Dear Ms. Burton:

I write as counsel to Judge G. Thomas Porteous, Jr., of the United States District Court for the Eastern District of Louisiana, who is the subject of an impeachment issued by the House of Representatives and now before the United States Senate. The purpose of this letter is to request the opportunity to review and make copies of certain materials in the Department of Justice's possession in order to prepare for the Senate trial.

The Senate Impeachment Counsel have asked the defense to formally request this material before seeking the intervention of the Senate to guarantee this discovery. The information that we are seeking is highly material to the Articles of the Impeachment.

The materials we request include the following:

- a. All FBI 302 forms – both draft and completed versions – relating to the FBI's investigation of Judge Porteous in connection with his nomination and confirmation to the federal bench in 1994.
- b. All material collected by the FBI and/or the Department of Justice during its investigation of Judge Porteous in connection to his nomination and confirmation to the federal bench in 1994.
- c. All material from the Wrinkled Robe investigation that references or relates to Judge Porteous.
- d. All material from the Wrinkled Robe investigation that references or relates to the setting, modifying, and/or splitting of bail bonds.

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www.bryancave.com

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June 30, 2010

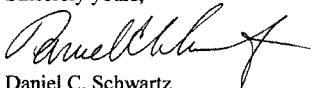
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- e. All material from the Wrinkled Robe investigation that references or relates to Jacob Amato, Robert Creely, Louis Marcotte, and Lois Marcotte
- f. All material from the Wrinkled Robe investigation that references or relates to gifts, money, or other items of value received by judges, magistrates, or other judicial officers in the Jefferson Parish Courthouse.
- g. All Department of Justice "Prosecution Memorandums" that reference or relate to Judge Porteous.
- h. All Department of Justice "Requests for Authorizations to Indict" individuals in connection to the Wrinkled Robe investigation.

The evidentiary hearings in the Senate are schedule to begin in mid-September 2010 and all motions must be filed by July 21, 2010. As such, we would appreciate your prompt response to this request, whether through by mail, fax, or email.

Sincerely yours,



Daniel C. Schwartz

cc: Alan I. Baron, Esq., House Impeachment Counsel  
Morgan Frankel, Esq., Senate Counsel  
Derron Parks, Esq., Senate Impeachment Trial Committee

## **Exhibit 3**



## U.S. Department of Justice

## Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

July 19, 2010

Daniel C. Schwartz, Esquire  
Bryan Cave LLP  
1155 F Street, NW  
Washington, DC 20004

Dear Mr. Schwartz:

This responds to your letter, dated June 30, 2010, which requested materials from the Department of Justice in connection with your representation of Judge G. Thomas Porteous, Jr. in the impeachment proceedings pending in the United States Senate.

Historically, the Department has not provided materials to officials facing impeachment, since the Department is not a party to those congressional proceedings. It is the responsibility of the Congress to provide any relevant materials to such officials. As a courtesy, we are responding to your requests by describing the extensive production that the Department has previously made to the Committee on the Judiciary in the U.S. House of Representatives (House Committee), either directly or through our document production to the U.S. Court of Appeals for the Fifth Circuit in connection with our referral of a judicial misconduct complaint concerning Judge Porteous, which the Fifth Circuit provided to the House Committee. To the best of our knowledge, the House Committee has received all documents in our possession that are relevant to the articles of impeachment, and we understand that the Committee has made those documents available to counsel for Judge Porteous.

As we have advised your colleague, we provided records regarding Judge Porteous, totaling 804 pages, to the House Committee in 2009 in connection with the impeachment proceedings in that body. Enclosed are copies of our correspondence regarding these disclosures. Also enclosed is the referral letter we sent to the Fifth Circuit on May 18, 2007. The letter sets forth the Department's reasons for not seeking criminal charges against Judge Porteous and contains an extensive discussion of the evidence the Department gathered concerning Judge Porteous's misconduct. The Department also provided approximately 12,378 pages of documents relating to its referral to the Fifth Circuit, which we understand were subsequently made available to counsel for Judge Porteous. Additionally, we understand that the House Committee has made available copies of all the documents obtained by staff as a result of meetings with Federal Bureau of Investigation representatives in New Orleans in October and November of 2009, and January of 2010. We believe that the FBI provided all of the documents that the House Committee requested as relevant to Judge Porteous.

As stated above, we believe that all of the relevant factual information relating to Judge Porteous has already been made available to his attorneys by the House Committee. Taken as a whole, these materials include FBI 302s and other material collected by the FBI in connection with the investigation of Judge Porteous prior to his 1994 confirmation to the federal bench and materials about Judge Porteous from the Wrinkled Robe investigation. Some of the Wrinkled Robe records pertain to his conduct relating to bail bonds, other judicial officers, and other individuals named in your letter.

The Department's production to the Fifth Circuit and the House Committee did not include our internal memoranda relating to the prosecution decisions concerning Judge Porteous and the Wrinkled Robe investigation. Based on the Department's longstanding policy of protecting the confidentiality and independence of prosecutorial deliberations, we are not prepared to make those deliberative materials available for the impeachment proceeding. We also note that our obligations under the Privacy Act, 5 U.S.C. § 552a, would complicate any effort by the Department to disclose to you records relating to third parties, although it appears that you have already received them from the House Committee, which is not covered by that Act.

We appreciate the importance of fairness in Judge Porteous's impeachment proceedings and want to assure you that we are unaware of any information in our records about Judge Porteous that is relevant or material to the articles of impeachment that is not contained in the records provided to the House Committee, and by the Committee to counsel for Judge Porteous. Under these circumstances, we are convinced that repeating our searches in response to your request would constitute only time-consuming efforts that would serve no useful purpose.

We hope that this information is helpful.

Sincerely,



Ronald Weich  
Assistant Attorney General

Enclosures

cc: Alan I. Baron, Esq., House Impeachment Counsel  
Morgan Frankel, Esq., Senate Counsel  
Derron Parks, Esq., Senate Impeachment Trial Committee



## **Exhibit 4**



## U.S. Department of Justice

Washington, D.C. 20530

AUG 1 1984

Donald A. Purdy, Jr., Esq.  
Counsel to the Committee  
United States Senate Impeachment  
Trial Committee  
Room Sh-902D  
Hart Senate Office Building.  
Washington, D.C. 20510

Dear Mr. Purdy:

Re: United States District Judge Walter L. Nixon, Jr.

Pursuant to the request of Senator Wyche Fowler, Jr., Chairman of the Senate Impeachment Trial Committee, the Department of Justice is providing the documents the Committee has requested concerning the investigation and prosecution of United States District Court Judge Walter L. Nixon, Jr. In some cases, where noted, redactions have been made to the documents to delete attorney work product. The documents provided are as follows:

1. Draft FBI Form, 302 Report of Interview of Stewart Sargent (4 pages).
2. Transcript of proffer of Wylie Fairchild on November 1, 1984 (9 pages).
3. Handwritten chronology (4 pages).
4. Memo, "Prosecution Memorandum of Carroll Ingram," dated December 7, 1984 (2 pages after redaction).
5. Memo, "Recommendation to Prosecute Paul H. 'Bud' Holmes," dated March 22, 1985 (9 pages after redaction).
6. Polygraph Report on Paul Hardin Holmes, dated July 12, 1985 (4 pages).
7. Handwritten notes (5 pages).
8. Handwritten "Drew Chronology" (9 pages).
9. Memo, "Request for Authorization to Indict Reditt 'Drew' Fairchild," dated March 18, 1985 (2 pages).

- 2 -

10. Memo, "Recommendation to Prosecute Drew Fairchild," dated March 22, 1985 (3 pages).
11. "Chart" (2 pages).
12. FBI Memo From SA Jerry Ripley to SAC Jackson, dated July 6, 1981 (2 pages).
13. Memo, "Recommendation to Prosecute United States District Judge Walter L. Nixon," dated July 9, 1985 (9 pages after redaction).
14. Memo, "Recommendation to Prosecute United States District Judge Walter L. Nixon," dated July 22, 1985 (9 pages after redaction).
15. Memo, "Request for Authorization to Apply for Disclosure of Tax Returns -- Walter L. Nixon," dated July 9, 1985 (2 pages).
16. Memo, "United States v. Paul H. 'Bud' Holmes: Marshals Service Staffing," dated June 6, 1985 (4 pages).
17. Handwritten notes, "Wallace Gunn TC 10/2/85" (1 page).
18. Memo, "Mississippi Investigation," dated April 30, 1984 (3 pages after redaction).
19. FBI Form 302, Report of Interview of Elma Manasco, dated November 6, 1984 (1 page).
20. Handwritten notes, first page headed "Weldon Kennedy," dated March 5, 1984 (13 pages).
21. FBI Form 302, Report of Interview of Thomas L. Dial, dated August 28, 1984 (2 pages).
22. FBI Form 302, Report of Interview of Captain James R. Kelly, dated January 24-25-26, 1984 (3 pages).
23. FBI Form 302, Report of Interview of Tom Dial, dated November 15, 1983 (2 pages).
24. FBI Form 302, Report of Interview of Robert Royals, dated January 9, 1986 (2 pages).
25. Handwritten note, headed "Ingram" (3 pages).
26. FBI Form 302, Report of Interview of Billy Riley, dated November 28, 1984 (2 pages).

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27. Handwritten note, headed "Bud and Fanning . . ." (1 page).
28. Letter from Jack Morton, Deputy Regional Counsel, IRS, to Honorable Glenn L. Archer, Jr., Assistant Attorney General, Tax Division, dated December 16, 1985 (5 pages).
29. Memo, "Status Report re: The Petit Bois Bribe Investigation," dated November 19, 1985 (20 pages after redaction).
30. Handwritten notes, headed "McMullan Proffer" (10 pages).
31. "Daily Report" for May 7, 1985 (2 pages).
32. "Walter Louis Nixon, Jr., ET AL, Narcotics Case - Background" (18 pages).

Should the Committee have any further questions concerning this matter, please feel free to contact me at 786-5059.

Sincerely,



James M. Cole  
Deputy Chief  
Public Integrity Section  
Criminal Division

Enclosures

## **Exhibit 5**

## FBI 302 Reports Produced to the Defense

1. Creely, Robert - 12/8/2003 - HP Ex. 19
2. Creely, Robert - 1/1/1994 - HP Ex. 250
3. Danos, Rhonda - 12/8/2003 - HP Ex. 42
4. Stotts, Norman - 12/18/2002 - HP Ex. 69(g) (extensive redactions, including whole pages omitted)
5. Centanni, Kevin - 7/7/2004 - HP Ex. 69(h)
6. Porteous, G. Thomas - 7/8/1994 - HP Ex. 69(i)
7. Porteous, G. Thomas - 8/18/1994 - HP Ex. 69(j)
8. Porteous, G. Thomas - 8/18/1994 - HP Ex. 69(k)
9. Reynolds, Michael - 11/3/1994 - HP Ex. 69(l)
10. Marcotte, Louis - 3/2, 23, 24, 25 & 29/2004 - HP Ex. 72(a) (excerpts only, whole pages omitted)
11. Marcotte, Louis - 4/21/2004 - HP Ex. 72(b)
12. Marcotte, Louis - 4/23/2004 - HP Ex. 72(c)
13. Marcotte, Louis - 4/1/2004 - HP Ex. 72(d)
14. Marcotte, Louis - 4/6/2004 - HP Ex. 72(e)
15. Marcotte, Louis - 7/20/2004 - HP Ex. 72(f)
16. Marcotte, Louis - 10/14/2004 - HP Ex. 72(g)
17. Marcotte, Lori - 3/3/2004 - HP Ex. 74(a)
18. Marcotte, Lori - 3/25/2004 - HP Ex. 74(b)
19. Marcotte, Lori - 3/30/2004 - HP Ex. 74(c)
20. Marcotte, Lori - 4/20/2004 - HP Ex. 74(d)
21. Marcotte, Lori - 11/3/2004 - HP Ex. 74(e)
22. Marcotte, Lori - 4/5/2004 - HP Ex. 74(f)
23. Duhon, Jeff - 7/22/2002 - HP Ex. 80(a)
24. Duhon, Jeff - 7/24/2002 - HP Ex. 80(b)
25. Duhon, Jeff - 11/13/2002 - HP Ex. 80(c)
26. Duhon, Jeff - 12/16/2002 - HP Ex. 80(d)
27. Duhon, Jeff - 8/5/2003 - HP Ex. 80(e)
28. Duhon, Jeff - 12/12/2002 - HP Ex. 80(f)
29. Duhon, Jeff - 1/29/2004 - HP Ex. 80(g)
30. Wallace, Aubrey - 10/1/2004 - HP Ex. 84
31. Bodenheimer, Ronald - 4/25/2003 - HP Ex. 89(a)
32. Bodenheimer, Ronald - 5/20/2003 - HP Ex. 89(b)
33. Bodenheimer, Ronald - 1/15-16/2003 - HP Ex. 89(c)
34. Bodenheimer, Ronald - 4/20/2004 - HP Ex. 89(d)
35. Greendyke, Ronald - 1/14/2005 - HP Ex. 333(b)
36. Beaulieu, S.J. - 1/22/2004 - HP Ex. 334
37. All 302 reports generated during the FBI's background check of Judge Porteous in 1994, and included in HP Ex. 69(b)

## **Exhibit 6**



U.S. Department of Justice  
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 25, 2009

The Honorable John Conyers, Jr.  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

This supplements our prior response to the Committee's letter, dated March 31, 2009, which requested documents and other information relating to the Department's referral to the United States Court of Appeals for the Fifth Circuit pertaining to Judge G. Thomas Porteous, Jr.

Enclosed are 309 pages of records pertaining to the Senate confirmation of Judge Porteous, including his background questionnaire (SF 86), FBI 302 reports of interviews in connection with the background investigation, and other related documents. These records along with the documents we produced to the Committee on June 18, 2009, complete our response to your March 31, 2009, request for documents relating to the background investigation of Judge Porteous.

The enclosed documents bear limited redactions of personal information, such as social security numbers, date of births, cell phone numbers, non-public numbers, and other limited information implicating individual privacy interests. We also have redacted the names and personal information related to law enforcement personnel, and text that would identify sources who requested confidentiality during the course of the background investigation. Nonetheless, these records implicate substantial individual privacy interests and, accordingly, we request that you consult with the Department prior to disclosing their contents outside of the Committee.

We hope that this information is helpful. Please do not hesitate to contact us if you would like additional assistance with this or any other matter.

Sincerely,

Ronald Weich  
Assistant Attorney General

Enclosures

cc: The Honorable Lamar S. Smith

HP Exhibit 69(b)



## **Exhibit 7**

1

NO 194-F  
77A-HQ-F

The following investigation was conducted by Special Agent (SA) S at New Orleans, Louisiana.

On October 26, 1994, E (Protect Identity) voluntarily appeared at the Federal Bureau of Investigation (FBI) office and made available to the Agent the following items:

Section 893, 893-1, and 894 of the Code of Criminal Procedures, Jefferson Parish arrest record re AUBREY N. WALLACE for the burglary and cocaine arrest, records from the 24th Judicial District Court, dated 1989 and December 15, 1988, and the candidate's report for Judge THOMAS PORTEOUS regarding financial disclosure forms.

E advised E had been talking to ROBERT REESE, defense attorney who had represented AUBREY WALLACE in the expungement before Judge THOMAS PORTEOUS. REESE had told E that he might consider talking with the FBI, and E made available REESE's phone numbers of P-1, E (home) and P-1, E (work). E

On October 28, 1994, E telephonically contacted the Agent and advised him that attorney BRUCE NETTERVILLE, LOUIS MARCOTTE and Judge PORTEOUS had gone to Las Vegas sometime during the last year, and the trip was supposedly paid for by LOUIS MARCOTTE. He also indicated that state probation and parole was probably going to violate AUBREY WALLACE for his employment with a bonding agency.

He advised that P-1, E P-1, E is a major drug supplier, and that AUBREY is still working at the bonding office with LOUIS MARCOTTE which is a violation of state law. He stated he had talked to probation officer JILL OTT and it was their intention to appeal PORTEOUS' sentence as far as setting aside the conviction for AUBREY WALLACE. E stated he would attempt to determine more information regarding when and where they had stayed in Las Vegas, and he would get back with the Agent as soon as he could develop that information.

WORK COPY

PORT000000721

## **Exhibit 8**

- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription 12/18/2002

NORMAN STOTTS was interviewed at the United States Attorneys Office, New Orleans, Louisiana. Present during the interview was [REDACTED]

[REDACTED] After being advised of the identities of the interviewing agents and the purpose of the interview, STOTTS provided the following information:

M

Investigation on 12/17 & 18/02 at New Orleans, Louisiana

File # 194A-NQ- F Date dictated 12/18/2002  
by SA S SA :rgo

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

HP Exhibit 69(g)

Pages 2 through 10 redacted for the following reasons:

-----  
M - Information which is not responsive

FD-302a (Rev. 10-6-95)

194A-NO- F

Continuation of FD-302 of NORMAN STOTTS , On 12/17 & 18/02 Page 11

M:

BBU's employees had the ability to call a judge to get a bond reduced or split. LOUIS MARCOTTE felt BBU had better relationships with certain judges and could call them for bond reduction to an amount BBU could make a surety bond and PSBU bond for the balance. STOTTS would visit BBU once or twice a year where STOTTS witnessed such activity.

FD-302a (Rev. 10-6-95)

194A-NO- F

Continuation of FD-302 of NORMAN STOTTS , On 12/17 & 18/02 Page 12

STOTTS opined that LOUIS MARCOTTE's success in handling bonds was attributed to LOUIS MARCOTTE being a part of the "good ol' boy" system. LOUIS MARCOTTE had the ability to request a bond reduction with judges. STOTTS believed it was possible that LOUIS MARCOTTE stated that he could get any bond reduced. LOUIS MARCOTTE did not conceal the fact that he obtained bond reductions from his relationship with judges. There was an implied ability to get bonds set or reduced so that the defendant could afford the bond. STOTTS never asked LOUIS MARCOTTE how he developed the relationship with the judges to get bonds reduced because it did not seem odd for the state of Louisiana.

On one occasion, STOTTS accompanied LOUIS MARCOTTE and LORI MARCOTTE to dinner with a judge or Justice of the Peace. The judge was a white male, middle aged, balding, short to medium height, and stocky build. STOTTS recalled there were approximately six occasions when he accompanied LOUIS MARCOTTE to dinner with a judge during the period 1992 to 2000. When STOTTS went to dinner with LOUIS MARCOTTE, they would be accompanied by other MARCOTTE family members. The dinners were paid for by different individuals of the MARCOTTE family.

M

Pages 13 through 21 redacted for the following reasons:

-----  
M - Information which is not responsive



FD-302a (Rev. 10-6-95)

194A-NO- F 100

Continuation of FD-302 of NORMAN STOTTS, On 12/17 & 18/92 Page 22

M

STOTTS met Judge THOMAS PORTEOUS through LOUIS MARCOTTE. On one or two occasions STOTTS had lunch with PORTEOUS and BBU employees LOUIS MARCOTTE, [REDACTED], and others. STOTTS knows PORTEOUS' secretary RHONDA LNU. STOTTS met PORTEOUS when PORTEOUS was either a federal appointee or a federal judge.

M

FD-302a (Rev. 10-6-95)

194A-NO- F

Continuation of FD-302 of NORMAN STOTTS, On 12/17 & 18/02 Page 23

M

The following was obtained through interview and observation:

Name:	NORMAN STOTTS
Sex:	Male
Race:	White
Address:	
Employer:	P-1
Position:	Assistant Vice President
Telephone:	P-1 (cell), (pager)

## Exhibit 9

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription 04/30/2004March 2, 2004 - Interview

LOUIS MARCOTTE was interviewed at the United States Attorney's Office (USAO), Eastern District of Louisiana (EDLA) in the presence of Assistant United States Attorneys (AUSAs) MICHAEL W. MAGNER, SALVADOR PERRICONE, MICHAEL W. SIMPSON, WILLIAM GIBBENS and STEPHEN M. HUBER as well as MARCOTTE's attorneys MARTIN REGAN and RICHARD WESTLING. SA LISA M. HORNER was also present for this interview.

LANDRY FORGES - JEFFERSON PARISH SHERIFF'S OFFICE (JPSO) DEPUTY

LOUIS MARCOTTE provided FORGES with gas money to take FORGES' son to events. It started with \$20.00 payments and progressed to once a week then more than once a week and the value increased to, on occasion, approximately \$200 or \$300.

LOUIS MARCOTTE (LOUIS) told REGGIE MARCOTTE (REGGIE) to give FORGES \$50.00 to \$100.00 if he asked. FORGES assisted BAIL BONDS UNLIMITED (BBU) among other things by providing them with bond information promptly. The MARCOTTES gave FORGES money to foster a good relationship with him so that it would help with their bonding business. On occasion FORGES could not find the MARCOTTES every week and had to settle for payments every two weeks.

LOUIS gave FORGES money to purchase five handguns for deputies at the JEFFERSON PARISH CORRECTIONAL CENTER (JPCC) including CALVIN WESTLEY, JASON CROSBY, FORGES and two others in the JPCC Intake/Booking Section. LOUIS also sent JOEY BOWLEY to FORGES' house to relight the hot water heater.

LOUIS sent JEFF DUHON to eat with JPCC Intake/Booking Section deputies including FORGES at COPELAND's Restaurant. LOUIS did not provide FORGES with a trip. LOUIS took AUBREY WALLACE, FORGES, CALVIN WESTLEY and JASON CROSBY to RICK'S CABARET and spent approximately \$1,500 on them. LOUIS believed his memory would become more clear if he reviewed BBU cash receipts.

---

Investigation on 3/2, 23-25, 29, 2004 at New Orleans, Louisiana

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File # 194A-NO-63762-302, 58B-NO-61544  
by SAs THERESA C. HUDSON and  
PATRICK K. BOHRER:PKB:wibDate dictated N/A

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to you; it and its contents are not to be distributed outside your agency.

JC202737

HP Exhibit 72(a)

194A-NO-63762-302, 58B-NO-65144

Continuation of FD-302 of LOUIS MARCOTTE, On 3/2, 23-25, 29/04, Page 5

of the statute and told LOUIS he could give money to Judge GREEN; however, LOUIS knew it felt wrong in his heart.

JUDGE MARTHA SASSONE

LOUIS knew he was being set up by Judge SASSONE and was cautious with what he said during his conversations with her.

JUDGE THOMAS PORTEOUS

(NOTE: AUSAs were not present during this portion of the interview.)

Early on, LOUIS and LORI did not know anyone at the Jefferson Parish Courthouse. ADAM BARNETT and Judge PORTEOUS knew each other and BARNETT started to contact Judge PORTEOUS to get bonds reduced. LOUIS paid BARNETT money to have bonds reduced through Judge PORTEOUS. At some point Judge PORTEOUS thought BARNETT lied to him so Judge PORTEOUS started to disengage from BARNETT and had more contact with LOUIS and LORI.

BARNETT started repairing Judge PORTEOUS' vehicles. After some time LOUIS began to repair Judge PORTEOUS' vehicles. BARNETT's father knew Judge PORTEOUS. LOUIS paid a mechanic "GUS" LNU cash or by check to repair Judge PORTEOUS' vehicles.

BARNETT was involved with getting a bond on defendant TRACEY IRELAND. BARNETT used his house for collateral on defendant bonds on approximately ten occasions.

LOUIS also took Judge PORTEOUS and Judge GIACOBBE on a trip to Las Vegas, Nevada. PHILIP O'NEIL, BRUCE NETTERVILLE, RHONDA DANOS and possibly CARMELLA PORTEOUS also attended. On this trip the lawyers and LOUIS split the cost of Judge PORTEOUS' expenses and gave the money to DANOS to put it through her checkbook in order to hide the payments. DANOS then wrote a check to pay for the expenses so there was no direct link between LOUIS, Judge PORTEOUS and Judge GIACOBBE. LOUIS did not remember if Judge PORTEOUS went on other trips with him other than to Las Vegas.

LOUIS never gave campaign contributions or cash to Judge PORTEOUS.

LOUIS sent JEFF DUHON to repair or install a fence at Judge PORTEOUS' residence.

JC202741

194A-NO-63762-302, 58B-NO-65144

Continuation of FD-302 of LOUIS MARCOTTE, On 3/2, 23-25, 29/04, Page 6

LOUIS purchased \$300 worth of shrimp for Judge PORTEOUS and another state judge.

LOUIS paid for several lunches for Judge PORTEOUS since he became a federal judge. Judge PORTEOUS wanted to go to lunch and have drinks with LOUIS and LOUIS paid for the expenses. LOUIS believed he has gone to lunch with Judge PORTEOUS on approximately five occasions since Judge PORTEOUS became a federal judge. LOUIS continued the relationship with Judge PORTEOUS after he became a federal judge because Judge PORTEOUS continued to open doors for LOUIS with state judges.

After the FBI investigation became public, LOUIS signed an affidavit regarding his relationship with Judge PORTEOUS. Judge PORTEOUS did not ask LOUIS directly to do this affidavit, but the request was made by their attorneys.

Judge PORTEOUS expunged the criminal records of JEFF DUHON and AUBREY "SKEETER" WALLACE on LOUIS' behalf.

#### BLAIR BOUTTE & MICHAEL HABENEY

BLAIR BOUTTE has contacts with politicians and is involved in splitting fees with lawyers. MICHAEL HABENEY leased a snowball stand to a judge. LOUIS has recordings of conversations he made with HABENEY and BARNETT concerning their activities.

LOUIS gave BOUTTE \$10,000 to give to PAULETTE IRONS. BOUTTE kept his own financial records. BOUTTE could also keep records at his girlfriend's house. BOUTTE's girlfriend is named LEIGH.

The JUDGE'S CHAMBERS is now a WAFFLE HOUSE and BOUTTE may also have an office located there. LOUIS has never seen the records at this location, however, LOUIS believed that the records would be located there. LOUIS did not know what BOUTTE did with his records since the FBI search warrant was executed at BBU. BOUTTE used to brag to LOUIS about public officials he had on his side. BRIAN HARLTON is now working for BOUTTE.

#### KENNETH BECK

KENNETH BECK had a million dollar lawsuit in Judge GREEN's Division. BECK is now working for BANKERS INSURANCE.

JC202742

## **Exhibit 10**



U.S. Department of Justice  
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

October 23, 2009

The Honorable John Conyers, Jr.  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

This supplements our prior responses to the Committee's letter, dated March 31, 2009, which requested documents and other information relating to the Department's referral to the United States Court of Appeals for the Fifth Circuit pertaining to Judge G. Thomas Porteous, Jr.

Enclosed are 22 pages of records pertaining to an investigation of Judge Porteous' compliance with a bankruptcy order, including FBI 302 reports of individuals interviewed in connection with that investigation. These documents bear limited redactions of personal information, such as social security numbers, date of births, cell phone numbers, non-public numbers, and other limited information implicating individual privacy interests. Similarly, we have also redacted the names and personal information related to law enforcement personnel, and the names of sources who requested that their identities not be revealed. Nonetheless, these records implicate substantial individual privacy interests and, accordingly, we request that you consult with the Department prior to disclosing their contents outside of the Committee.

Please do not hesitate to contact us if you would like additional assistance with this or any other matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Weich".

Ronald Weich  
Assistant Attorney General

Enclosures

cc: The Honorable Lamar S. Smith  
Ranking Minority Member

HP Exhibit 69(e)



## **Exhibit 11**

- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription 05/22/2003

RONALD BODENHEIMER, date of birth [REDACTED], Social Security Account Number [REDACTED], 1204 Neyrey Drive, Metairie, Louisiana, was interviewed at the office of the New Orleans Division, FEDERAL BUREAU of INVESTIGATION (FBI), 2901 Leon C. Simon. Also present during the interview were DEPARTMENT of JUSTICE (DOJ) Trial Attorney [REDACTED] and FBI Financial Analyst (FA) [REDACTED]. After being advised of the identities of the interviewing agents and the purpose of the interview, BODENHEIMER provided the following information:

BODENHEIMER first came to know THOMAS PORTEOUS while serving as a Jefferson Parish Assistant District Attorney (ADA). As a former ADA, PORTEOUS was still close to the District Attorney's office and former District Attorney First Name Unknown (FNU) MAMOULIDES. BODENHEIMER was assigned as the ADA to PORTEOUS' court and also served as a special prosecutor in PORTEOUS' court. BODENHEIMER had no real social contact with PORTEOUS, only courthouse business. During the course of working in PORTEOUS' court, a friendship developed between BODENHEIMER and PORTEOUS which continued after PORTEOUS was appointed as a Federal District Court Judge.

After he became a federal judge, PORTEOUS continued to attend various State District Attorney and Judge conferences and seminars. PORTEOUS often socialized with Judge PAT MCCABE. LOUIS MARCOTTE would often invite groups of about ten persons to lunch, often these would be "lingerie lunches" at restaurants such as The Red Maple on the Westbank. PORTEOUS would show up at the lunches and usually just drank alcohol without eating. LOUIS MARCOTTE paid for the lunches. BODENHEIMER never paid and he never observed PORTEOUS paying. Others who attended the lunches were [REDACTED]

[REDACTED] often brought his assistant, however, BODENHEIMER could not remember her name.

PORTEOUS continued to attend State judge fundraisers following his appointment to the federal judiciary. BODENHEIMER

Investigation on 05/20/2003 at New Orleans, Louisiana

# [REDACTED] Date dictated 05/20/2003  
by SA [REDACTED], SA [REDACTED]  
SA [REDACTED], SA [REDACTED]

HP Exhibit 89(b)

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

JC200608

Continuation of FD-302 of RONALD BODENHEIMER, On 05/20/2003, Page 2

thought PORTEOUS would usually just show up. PORTEOUS took Federal District Court Judge [REDACTED] to a seminar in either Florida or Mississippi. PORTEOUS and Attorney LENNY LEVINSON are as close as Siamese twins. LEVENSON throws a big lunch for all of the Jefferson Parish judges and their wives in Sandestin, Florida, during annual legal seminars or conventions. BODENHEIMER believed CHIP FORSTALL may help LEVENSON foot the bill for the lunch. [REDACTED] would also throw a function for judges and attorneys at his home in Destin, Florida. BODENHEIMER also mentioned a large New Orleans law firm, possibly [REDACTED], providing a lunch to judges during the Destin seminar.

Attorney DON GARDNER is extremely close to PORTEOUS. Attorneys would hire GARDNER to sit as counsel in PORTEOUS' court. BODENHEIMER did not know why GARDNER and PORTEOUS were so close. LEVENSON and PORTEOUS were close, but not as close as PORTEOUS and GARDNER. If PORTEOUS ever awarded a \$1 million verdict against Jefferson Parish, GARDNER was the attorney. BODENHEIMER thought PORTEOUS had awarded this type of verdict a couple of times. BODENHEIMER had heard other lawyers complaining about GARDNER. GARDNER would beat you and laugh, while BOB CREELY would beat you and shake your hand. CREELY was also close to PORTEOUS. CREELY and PORTEOUS would go on vacation together. CREELY and his partner, JAKE AMATO, used to host PORTEOUS at parties with girls on their houseboat.

PORTEOUS would tell war stories about trips with lawyers but BODENHEIMER could not remember specifics. BODENHEIMER did not know who paid for the trips. PORTEOUS would go on hunting trips with CREELY and AMATO that BODENHEIMER thought were merely an excuse to get drunk. AMATO and CREELY were also tight with GARDNER. PORTEOUS was the wildest of the State judges. He continued his drinking and wild ways as a federal judge. PORTEOUS [REDACTED] however, BODENHEIMER was not sure which one. There were also rumors that PORTEOUS [REDACTED]. BODENHEIMER never saw anything inappropriate among these persons. Either LORI or LISA MARCOTTE were always hanging around with PORTEOUS.

LOUIS MARCOTTE would take PORTEOUS' staff to lunch and do favors for his staff. BODENHEIMER knew that RHONDA LNU would go to lunch with PORTEOUS and LOUIS MARCOTTE. LOUIS MARCOTTE was indebted to PORTEOUS for "inventing" the splitting of bonds system. BODENHEIMER believed PORTEOUS came up with the bond splitting

JC200609

Continuation of FD-302 of RONALD BODENHEIMER, On 05/20/2003, Page 3

[REDACTED]

system after studying the Louisiana Criminal Code, which does not explicitly allow for "splitting", but can be done by implication. LOUIS MARCOTTE and PORTEOUS remained close after PORTEOUS went to the federal bench. BODENHEIMER did not know what PORTEOUS could do for LOUIS MARCOTTE as a federal judge.

When BODENHEIMER was first elected as a judge, PORTEOUS was still close to the Jefferson Parish judicial system. PORTEOUS spoke at JOAN BENGE's swearing-in ceremony. PORTEOUS told BODENHEIMER that he would now always be called "Judge." PORTEOUS told BODENHEIMER that LOUIS MARCOTTE was straight, solid and that BODENHEIMER could trust him, and not to believe the rumors regarding LOUIS MARCOTTE. BODENHEIMER assumed that PORTEOUS told JOAN BENGE the same thing about LOUIS MARCOTTE. BODENHEIMER knew that LOUIS MARCOTTE had arranged for PORTEOUS to speak at a National Bail Bonds Conference so that the trip could be paid for.

When PORTEOUS was confirmed as a Federal District Court Judge, he told BODENHEIMER that if he could get confirmed, anyone can get confirmed. BODENHEIMER assumed he was talking about his baggage, such as drinking. BODENHEIMER would describe PORTEOUS as corrupt because anytime certain lawyers were in PORTEOUS' court a verdict in that lawyers' favor was assured, which constituted corruption in BODENHEIMER's mind. BODENHEIMER had heard that type of corruption had continued in PORTEOUS' federal courtroom, with GARDNER and LEVENSON, and with AMATO and CREELY to a lesser extent. BODENHEIMER heard about a big case GARDNER had won in PORTEOUS' court about one year ago.

BODENHEIMER was with PORTEOUS at a seminar, possibly at the BEAU RIVAGE CASINO in Mississippi, when PORTEOUS was sitting at a gaming table and drinking heavily. Also at the table was LOUIS MARCOTTE. Neither BODENHEIMER nor LOUIS MARCOTTE were gambling. BODENHEIMER knew PORTEOUS went to BEAU RIVAGE several times with LOUIS MARCOTTE for seminars, and that he had also gone on a Las Vegas trip. BODENHEIMER believed that LOUIS MARCOTTE had gone to Las Vegas with PORTEOUS and [REDACTED]

[REDACTED]

JC200610

[REDACTED]

ORTEOUS and former Jefferson Parish District Attorney [REDACTED] are very close. ORTEOUS was a supervisor for [REDACTED] in the District Attorney's Office for years. ORTEOUS would tell war stories about [REDACTED] and BODENHEIMER knew they had traveled together some.

ORTEOUS did favors for BAIL BONDS UNLIMITED employees. For example, the AUBREY WALLACE incident which was reported in the local press. ORTEOUS agreed to give WALLACE a "state court 893" deal, whereby he went back and reopened the case and accepted a plea from WALLACE, which would be set aside once probation was completed, and thereafter recorded as an acquittal. BODENHEIMER believed that WALLACE had committed a class 3 felony but he was not sure. BODENHEIMER knew that ORTEOUS had helped WALLACE as a favor to LOUIS MARCOTTE, so that WALLACE could receive an insurance license and act as a bail bondsman. BODENHEIMER had seen this "893" procedure done only twice in his career as lawyer, prosecutor, and judge. ORTEOUS basically reopened the case for no legitimate reason to help WALLACE and LOUIS MARCOTTE.

BODENHEIMER knew DARCY LNU. She was training to be a clerk when BODENHEIMER worked for Judge TIEMANN, and she later became head of the criminal clerks.

BODENHEIMER had witnessed ORTEOUS on the bench after he had been drinking at lunch.

ORTEOUS showed up at a lunch attended by BODENHEIMER at EMERIL'S, hosted by LOUIS MARCOTTE. ORTEOUS drank, but did not eat.

KYLE SCHONEKAS is representing ORTEOUS. BODENHEIMER's attorney EDDIE CASTAING spoke with SCHONEKAS regarding the ORTEOUS information that was in the FBI's Title III Affidavit. This information was learned during ORTEOUS' federal judicial background investigation.

BODENHEIMER remembered hearing of "war stories" involving [REDACTED] and ORTEOUS, however, BODENHEIMER did not remember specifics. [REDACTED] were law school classmates.

ORTEOUS is a very smart judge and would tell BODENHEIMER how to do certain things in order to win his case. For example, BODENHEIMER once had a case where he did not want to prosecute a

[REDACTED]

Continuation of FD-302 of RONALD BODENHEIMER, On 05/20/2003, Page 5

Jefferson Parish Sheriff's Deputy, and PORTEOUS told BODENHEIMER to put all the facts in front of him and he would find the officer not guilty, rather than BODENHEIMER just not pursuing the case.

SCHONEKAS told either [REDACTED] or [REDACTED] that PORTEOUS was seething, and was just waiting for the FBI to finish its investigation so he could "catch back."

BODENHEIMER did not remember the name [REDACTED].

JC200612

**Johnson, Erin (SITC)**

---

**Subject:** FW: Follow up on Judge Porteous requests  
**Attachments:** Exhibit 4 DOJ letter to Senate 8-1-89.pdf; Exhibit 5 list of FBI 302s.pdf; Exhibit 7.pdf; Exhibit 8 Interview of Norman Stotts.pdf; Exhibit 10 AAG Weich ltr to Conyer 10-23-09.pdf; HP Ex. 069 (e).PDF

**From:** Seidel, Rebecca (SITC)  
**Sent:** Thursday, August 19, 2010 9:52 AM  
**To:** 'Burton, Faith (SMO)'; Erb, William (OLA)  
**Cc:** 'Parmiter, Robert B'; Kim, Justin (SITC); Parks, Derron (SITC); Jipping, Tom (SITC); Seidel, Rebecca (SITC)  
**Subject:** Follow up on Judge Porteous requests

Faith,

We are emailing you to provide some advanced notice that a letter from the Chairman will be forthcoming regarding Judge Porteous's requests to DOJ. Below is a copy of Judge Porteous's recently revised / narrowed requests for your review, especially in light of the letter in the Nixon case from DOJ to Chairman Fowler on 7/18/89 which is attached. Please take particular notice of the production in the Nixon case of prosecution memorandum. We request your expedited consideration.

Porteous Narrowed requests:

1. All Form FD-302 reports (or FBI field memoranda), in entirely unredacted form, generated by the FBI during its criminal investigation of Judge Porteous and its investigation of Judge Porteous in connection with his nomination and confirmation to the federal bench. A list of all 302 Reports previously received by the defense (with varying levels of redaction) is attached. *[See list of 302 Reports provided by Judge Porteous, attached as Exhibit 5].*
2. An unredacted version of House Exhibit 69(b), which appears to include 309 pages of documents produced by the Department to the House on or about June 25, 2009. This document contains a number of 302 Reports, many of which contain redactions. *[NOTE: here is link to documents in 69(b), [Click to Retrieve File\(s\)](#) file too large to do as attachment ]*
3. An unredacted version of a the document bates labeled PORT000000721, and attached to this letter as Exhibit 7.
4. An unredacted version of an FBI 302 Report dated December 18, 2002, regarding an interview with Norman Stotts. The version of this document previously produced to the defense appears to omit pages and includes extensive redactions. *[The redacted version of this document is attached as Exhibit 8].*
5. An unredacted version of House Exhibit 69(e), which appears to include 23 pages of documents produced by the Department to the House of Representatives on or about October 23, 2009. The cover letter to this exhibit is attached as Exhibit 10. This document contains numerous 302 Reports, which contain redactions. *[pdf of House 69(e) is attached].*
6. All Department of Justice "Prosecution Memorandums" that reference or relate to Judge Porteous. The Department indicated in its July 19, 2010 letter that it would decline to provide this type of material directly to Judge Porteous. The defense notes that, in the Nixon impeachment proceedings, the Department provided prosecution memoranda to the Senate. *[See August 1, 1989 Letter from Department of Justice, attached as Exhibit 4].*

7. All Department of Justice "Requests for Authorizations to Indict" that reference or relate to Judge Porteous. The defense notes that, in the Nixon impeachment proceedings, the Department provided "Requests for Authorizations to Indict" to the Senate. *[See August 1, 1989 Letter from Department of Justice, attached as Exhibit 4].*
8. All grand jury testimony taken or collected by the Department during its investigation of Judge Porteous, not previously provided to the defense. The defense has received only the following grand jury transcripts from the House:
  - Ronald Bodenheimer – April 22, 2004
  - Claude Lightfoot – August 19, 2004, September 9, 2004, November 4, 2004, September 24, 2009, and October 29, 2007
  - Warren Forestall – March 17, 2006
  - Robert Creely – March 17, 2006
  - Donald Gardner – March 31, 2006
  - Rhonda Danos – March 31, 2006, and August 18, 2006
  - Leonard Levinson – April 7, 2006
  - Joseph Mole – May 5, 2006
  - Jacob Amato – May 5, 2006

*[Note: is there a list of people subpoenaed to testify at the grand jury?]*

9. Any 302 Reports for Robert Rees or Bruce Netterville generated in either the Wrinkled Robe or Judge Porteous investigations. The defense has not received any 302 Reports related to these two individuals.
10. An unredacted version of the Affidavit in Support of the Application for an Order Authorizing the Interception of Wire Communications, dated August 27, 2001. Judge Porteous has been provided with a redacted copy of this document.
11. Any orders issued by any court in response to the Affidavit in Support of the Application for an Order Authorizing the Interception of Wire Communications, dated August 27, 2001
12. All records received by the Department in response to its subpoena to Beau Rivage (request #1A), as listed on the Grand Jury Subpoena Log. According to the Grand Jury Subpoena Log, the Department received records related to this subpoena on October 7, 1999.
13. All records received by the Department in response to its subpoena to Treasure Chest (request #35), as listed on the Grand Jury Subpoena Log. According to the Grand Jury Subpoena Log, the Department received records related to this subpoena on July 31, 2002.
14. All records received by the Department in response to its subpoena to Beau Rivage (request #37), as listed on the Grand Jury Subpoena Log. It is unclear when the Department received records related to this subpoena.
15. All records received by the Department in response to its subpoena to Grand Casinos of Mississippi - Gulfport (request #40), as listed on the Grand Jury Subpoena Log. It is unclear when the Department received records related to this subpoena.
16. All records received by the Department in response to its subpoena to Trips Unlimited, Inc. (request #44), as listed on the Grand Jury Subpoena Log. According to the Grand Jury Subpoena Log, the Department received records related to this subpoena on March 10, 2003.



17. All records received by the Department in response to its subpoena to Claude Lightfoot (request #82), as listed on the Grand Jury Subpoena Log. According to the Grand Jury Subpoena Log, the Department received records related to this subpoena on February 26, 2004 and June 29, 2004.
18. All records received by the Department in response to its subpoena to Treasure Chest (request #113), as listed on the Grand Jury Subpoena Log. It is unclear when the Department received records related to this subpoena.
19. All records received by the Department in response to its subpoena to Beau Rivage (request #114), as listed on the Grand Jury Subpoena Log. According to the Grand Jury Subpoena Log, the Department received records related to this subpoena on October 30, 2006.

We are available to discuss if you have questions. Thank you for your assistance.

*Rebecca Seidel*  
*Counsel*  
*Senate Impeachment Trial Committee*  
*Room SRB 34A, Russell Senate Office Building*  
*202-228-4136 (desk)*  
*202-570-2590 (cell)*

CONFIDENTIALITY NOTE: The information contained in this e-mail is legally privileged and confidential information intended only for the use of the individuals or entities named as addressees. If you, the reader of this message, are not the intended recipient, you are hereby notified that any dissemination, distribution, publication, or copying of the message is strictly prohibited. If you have received this message in error, please forgive the inconvenience, immediately notify the sender, and delete the original message without keeping a copy.

## **Exhibit 5**

## FBI 302 Reports Produced to the Defense

1. Creely, Robert - 12/8/2003 - HP Ex. 19
2. Creely, Robert - 1/1/1994 - HP Ex. 250
3. Danos, Rhonda - 12/8/2003 - HP Ex. 42
4. Stotts, Norman - 12/18/2002 - HP Ex. 69(g) (extensive redactions, including whole pages omitted)
5. Centanni, Kevin - 7/7/2004 - HP Ex. 69(h)
6. Porteous, G. Thomas - 7/8/1994 - HP Ex. 69(i)
7. Porteous, G. Thomas - 8/18/1994 - HP Ex. 69(j)
8. Porteous, G. Thomas - 8/18/1994 - HP Ex. 69(k)
9. Reynolds, Michael - 11/3/1994 - HP Ex. 69(l)
10. Marcotte, Louis - 3/2, 23, 24, 25 & 29/2004 - HP Ex. 72(a) (excerpts only, whole pages omitted)
11. Marcotte, Louis - 4/21/2004 - HP Ex. 72(b)
12. Marcotte, Louis - 4/23/2004 - HP Ex. 72(c)
13. Marcotte, Louis - 4/1/2004 - HP Ex. 72(d)
14. Marcotte, Louis - 4/6/2004 - HP Ex. 72(e)
15. Marcotte, Louis - 7/20/2004 - HP Ex. 72(f)
16. Marcotte, Louis - 10/14/2004 - HP Ex. 72(g)
17. Marcotte, Lori - 3/3/2004 - HP Ex. 74(a)
18. Marcotte, Lori - 3/25/2004 - HP Ex. 74(b)
19. Marcotte, Lori - 3/30/2004 - HP Ex. 74(c)
20. Marcotte, Lori - 4/20/2004 - HP Ex. 74(d)
21. Marcotte, Lori - 11/3/2004 - HP Ex. 74(e)
22. Marcotte, Lori - 4/5/2004 - HP Ex. 74(f)
23. Duhon, Jeff - 7/22/2002 - HP Ex. 80(a)
24. Duhon, Jeff - 7/24/2002 - HP Ex. 80(b)
25. Duhon, Jeff - 11/13/2002 - HP Ex. 80(c)
26. Duhon, Jeff - 12/16/2002 - HP Ex. 80(d)
27. Duhon, Jeff - 8/5/2003 - HP Ex. 80(e)
28. Duhon, Jeff - 12/12/2002 - HP Ex. 80(f)
29. Duhon, Jeff - 1/29/2004 - HP Ex. 80(g)
30. Wallace, Aubrey - 10/1/2004 - HP Ex. 84
31. Bodenheimer, Ronald - 4/25/2003 - HP Ex. 89(a)
32. Bodenheimer, Ronald - 5/20/2003 - HP Ex. 89(b)
33. Bodenheimer, Ronald - 1/15-16/2003 - HP Ex. 89(c)
34. Bodenheimer, Ronald - 4/20/2004 - HP Ex. 89(d)
35. Greendyke, Ronald - 1/14/2005 - HP Ex. 333(b)
36. Beaulieu, S.J. - 1/22/2004 - HP Ex. 334
37. All 302 reports generated during the FBI's background check of Judge Porteous in 1994, and included in HP Ex. 69(b)

## **Exhibit 7**

1

NO 194-F  
77A-HQ-F

The following investigation was conducted by Special Agent (SA) S at New Orleans, Louisiana.

On October 26, 1994, E (Protect Identity) voluntarily appeared at the Federal Bureau of Investigation (FBI) office and made available to the Agent the following items:

Section 893, 893-1, and 894 of the Code of Criminal Procedures, Jefferson Parish arrest record re AUBREY N. WALLACE for the burglary and cocaine arrest, records from the 24th Judicial District Court, dated 1989 and December 15, 1988, and the candidate's report for Judge THOMAS PORTEOUS regarding financial disclosure forms.

E advised E had been talking to ROBERT REESE, defense attorney who had represented AUBREY WALLACE in the expungement before Judge THOMAS PORTEOUS. REESE had told E that he might consider talking with the FBI, and E made available REESE's phone numbers of P-1, E (home) and P-1, E (work). E

On October 28, 1994, E telephonically contacted the Agent and advised him that attorney BRUCE NETTERVILLE, LOUIS MARCOTTE and Judge PORTEOUS had gone to Las Vegas sometime during the last year, and the trip was supposedly paid for by LOUIS MARCOTTE. He also indicated that state probation and parole was probably going to violate AUBREY WALLACE for his employment with a bonding agency.

He advised that P-1, E is a major drug supplier, and that AUBREY is still working at the bonding office with LOUIS MARCOTTE which is a violation of state law. He stated he had talked to probation officer JILL OTT and it was their intention to appeal PORTEOUS' sentence as far as setting aside the conviction for AUBREY WALLACE. E stated he would attempt to determine more information regarding when and where they had stayed in Las Vegas, and he would get back with the Agent as soon as he could develop that information.

WORK COPY

PORT000000721

## Exhibit 8

- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription 12/18/2002

NORMAN STOTTS was interviewed at the United States Attorneys Office, New Orleans, Louisiana. Present during the interview was [REDACTED]

[REDACTED] After being advised of the identities of the interviewing agents and the purpose of the interview, STOTTS provided the following information:

M

Investigation on 12/17 & 18/02 at New Orleans, Louisiana

File # 194A-NO- F SA Date dictated 12/18/2002  
by SA S SA :rgo

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

HP Exhibit 69(g)

Pages 2 through 10 redacted for the following reasons:

-----  
M - Information which is not responsive



FD-302a (Rev. 10-6-95)

194A-NO-

F

Continuation of FD-302 of

NORMAN STOTTS, On 12/17 & 18/02 Page 11

M

BBU's employees had the ability to call a judge to get a bond reduced or split. LOUIS MARCOTTE felt BBU had better relationships with certain judges and could call them for bond reduction to an amount BBU could make a surety bond and PSBU bond for the balance. STOTTS would visit BBU once or twice a year where STOTTS witnessed such activity.

FD-302a (Rev. 10-6-95)

194A-NO- F 10756

Continuation of FD-302 of NORMAN STOTTS , On 12/17 & 18/02 Page 12

STOTTS opined that LOUIS MARCOTTE's success in handling bonds was attributed to LOUIS MARCOTTE being a part of the "good ol' boy" system. LOUIS MARCOTTE had the ability to request a bond reduction with judges. STOTTS believed it was possible that LOUIS MARCOTTE stated that he could get any bond reduced. LOUIS MARCOTTE did not conceal the fact that he obtained bond reductions from his relationship with judges. There was an implied ability to get bonds set or reduced so that the defendant could afford the bond. STOTTS never asked LOUIS MARCOTTE how he developed the relationship with the judges to get bonds reduced because it did not seem odd for the state of Louisiana.

On one occasion, STOTTS accompanied LOUIS MARCOTTE and LORI MARCOTTE to dinner with a judge or Justice of the Peace. The judge was a white male, middle aged, balding, short to medium height, and stocky build. STOTTS recalled there were approximately six occasions when he accompanied LOUIS MARCOTTE to dinner with a judge during the period 1992 to 2000. When STOTTS went to dinner with LOUIS MARCOTTE, they would be accompanied by other MARCOTTE family members. The dinners were paid for by different individuals of the MARCOTTE family.

M.

Pages 13 through 21 redacted for the following reasons:

-----  
M - Information which is not responsive

FD-302a (Rev. 10-6-95)

194A-NO- F

Continuation of FD-302 of NORMAN STOTTS , On 12/17 & 18/07 22

M

STOTTS met Judge THOMAS PORTEOUS through LOUIS MARCOTTE. On one or two occasions STOTTS had lunch with PORTEOUS and BBU employees LOUIS MARCOTTE, [REDACTED], and others. STOTTS knows PORTEOUS' secretary RHONDA LNU. STOTTS met PORTEOUS when PORTEOUS was either a federal appointee or a federal judge.

M

FD-302a (Rev. 10-6-95)

194A-NO- F

Continuation of FD-302 of NORMAN STOTTS, On 12/17 & 18/02 Page 23

M

The following was obtained through interview and observation:

Name:	NORMAN STOTTS
Sex:	Male
Race:	White
Address:	
Employer:	P-1
Position:	Assistant Vice President
Telephone:	P-1 (cell), (pager)

## **Exhibit 10**



U.S. Department of Justice  
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

October 23, 2009

The Honorable John Conyers, Jr.  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

This supplements our prior responses to the Committee's letter, dated March 31, 2009, which requested documents and other information relating to the Department's referral to the United States Court of Appeals for the Fifth Circuit pertaining to Judge G. Thomas Porteous, Jr.

Enclosed are 22 pages of records pertaining to an investigation of Judge Porteous' compliance with a bankruptcy order, including FBI 302 reports of individuals interviewed in connection with that investigation. These documents bear limited redactions of personal information, such as social security numbers, date of births, cell phone numbers, non-public numbers, and other limited information implicating individual privacy interests. Similarly, we have also redacted the names and personal information related to law enforcement personnel, and the names of sources who requested that their identities not be revealed. Nonetheless, these records implicate substantial individual privacy interests and, accordingly, we request that you consult with the Department prior to disclosing their contents outside of the Committee.

Please do not hesitate to contact us if you would like additional assistance with this or any other matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Weich", is located below the word "Sincerely,".

Ronald Weich  
Assistant Attorney General

Enclosures

cc: The Honorable Lamar S. Smith  
Ranking Minority Member

HP Exhibit 69(e)

## **Exhibit 4**





## U.S. Department of Justice

Washington, D.C. 20530

AUG 1 1989

Donald A. Purdy, Jr., Esq.  
Counsel to the Committee  
United States Senate Impeachment  
Trial Committee  
Room 5H-902D  
Hart Senate Office Building.  
Washington, D.C. 20510

Dear Mr. Purdy:

Re: United States District Judge Walter L. Nixon, Jr.

Pursuant to the request of Senator Wyche Fowler, Jr., Chairman of the Senate Impeachment Trial Committee, the Department of Justice is providing the documents the Committee has requested concerning the investigation and prosecution of United States District Court Judge Walter L. Nixon, Jr. In some cases, where noted, redactions have been made to the documents to delete attorney work product. The documents provided are as follows:

1. Draft FBI Form, 302 Report of Interview of Stewart Sargent (4 pages).
2. Transcript of proffer of Wylie Fairchild on November 1, 1984 (9 pages).
3. Handwritten chronology (4 pages).
4. Memo, "Prosecution Memorandum of Carroll Ingram," dated December 7, 1984 (2 pages after redaction).
5. Memo, "Recommendation to Prosecute Paul H. 'Bud' Holmes," dated March 22, 1985 (9 pages after redaction).
6. Polygraph Report on Paul Hardin Holmes, dated July 12, 1985 (4 pages).
7. Handwritten notes (5 pages).
8. Handwritten "Drew Chronology" (9 pages).
9. Memo, "Request for Authorization to Indict Reditt 'Drew' Fairchild," dated March 18, 1985 (2 pages).

- 2 -

10. Memo, "Recommendation to Prosecute Drew Fairchild," dated March 22, 1985 (3 pages).
11. "Chart" (2 pages).
12. FBI Memo From SA Jerry Ripley to SAC Jackson, dated July 6, 1981 (2 pages).
13. Memo, "Recommendation to Prosecute United States District Judge Walter L. Nixon," dated July 9, 1985 (9 pages after redaction).
14. Memo, "Recommendation to Prosecute United States District Judge Walter L. Nixon," dated July 22, 1985 (9 pages after redaction).
15. Memo, "Request for Authorization to Apply for Disclosure of Tax Returns -- Walter L. Nixon," dated July 9, 1985 (2 pages).
16. Memo, "United States v. Paul H. 'Bud' Holmes: Marshals Service Staffing," dated June 6, 1985 (4 pages).
17. Handwritten notes, "Wallace Gunn TC 10/2/85" (1 page).
18. Memo, "Mississippi Investigation," dated April 30, 1984 (3 pages after redaction).
19. FBI Form 302, Report of Interview of Elma Manasco, dated November 6, 1984 (1 page).
20. Handwritten notes, first page headed "Weldon Kennedy," dated March 5, 1984 (13 pages).
21. FBI Form 302, Report of Interview of Thomas L. Dial, dated August 28, 1984 (2 pages).
22. FBI Form 302, Report of Interview of Captain James R. Kelly, dated January 24-25-26, 1984 (3 pages).
23. FBI Form 302, Report of Interview of Tom Dial, dated November 15, 1983 (2 pages).
24. FBI Form 302, Report of Interview of Robert Royals, dated January 9, 1986 (2 pages).
25. Handwritten note, headed "Ingram" (3 pages).
26. FBI Form 302, Report of Interview of Billy Riley, dated November 28, 1984 (2 pages).

- 3 -

27. Handwritten note, headed "Bud and Panning . . ." (1 page).
28. Letter from Jack Morton, Deputy Regional Counsel, IRS, to Honorable Glenn L. Archer, Jr., Assistant Attorney General, Tax Division, dated December 16, 1985 (5 pages).
29. Memo, "Status Report re: The Petit Bois Bribe Investigation," dated November 19, 1985 (20 pages after redaction).
30. Handwritten notes, headed "McMullan Proffer" (10 pages).
31. "Daily Report" for May 7, 1985 (2 pages).
32. "Walter Louis Nixon, Jr., ET AL, Narcotics Case - Background" (18 pages).

Should the Committee have any further questions concerning this matter, please feel free to contact me at 786-5059.

Sincerely,



James M. Cole  
Deputy Chief  
Public Integrity Section  
Criminal Division

Enclosures

CLARE MCCASKILL, MISSOURI, CHAIRMAN  
 ORRIN G. HATCH, UTAH, VICE CHAIRMAN  
 AMY KLOBUCHAR, MINNESOTA  
 SHEL GORDON WHITEHOUSE, RHODE ISLAND  
 TOM UDALL, NEW MEXICO  
 JEFFREY BLUMENTHAL, NEW HAMPSHIRE  
 EDWARD F. KAUFMAN, DELAWARE  
 JIM DEMINT, SOUTH CAROLINA  
 JOHN BOHRER, OYINGBORG  
 ROGER E. WICKER, MISSISSIPPI  
 MIKE BROWNE, NEBRASKA  
 JAMES E. RESCH, IOWA

## United States Senate

SENATE IMPEACHMENT  
 TRIAL COMMITTEE

WASHINGTON, DC 20510-6326  
 August 25, 2010

Ronald W. Weich  
 Assistant Attorney General  
 Office of Legislative Affairs  
 United States Department of Justice  
 Washington, D.C. 20530

Dear Mr. Weich:

The United States Senate Impeachment Trial Committee on the Articles Against G. Thomas Porteous, Jr. has received a request from Judge Porteous seeking the Committee's assistance in obtaining materials from the Department of Justice necessary for his defense in the Senate impeachment trial proceedings. At the Committee's instruction, Judge Porteous submitted his request directly to the Department on June 30, 2010.

After reviewing Judge Porteous's request, you responded in writing on July 19, 2010, that the Department as a matter of practice "has not provided materials to officials facing impeachment" and that "[i]t is the responsibility of the Congress to provide any relevant materials to such officials." According to your letter, the Department has previously conducted an extensive review of relevant materials in its custody and provided more than 13,000 pages to the United States Court of Appeals for the Fifth Circuit and the United States House of Representatives. You indicated that the productions to the Fifth Circuit and the House included "all documents in our possession that are relevant to the articles of impeachment." The Committee has confirmed that Judge Porteous has access to the Department's prior productions that relate to the Articles of Impeachment.

On July 29, 2010, the Committee staff attended a briefing with the Department regarding the outstanding requests for additional documents that may be useful for Judge Porteous's defense. At the briefing, the Department agreed to produce a handful of documents requested by the Committee staff and to consider other requests for documents made by Judge Porteous through the Committee. In addition, the Department offered to produce any documents on the grand jury subpoena log which had not been previously produced. The Committee now asks the Department to consider the following requests made by Judge Porteous:

1. All Form FD-302 reports (or FBI field memoranda), in unredacted form, generated by the FBI during its criminal investigation of Judge Porteous and its investigation of Judge Porteous in connection with his nomination and confirmation to the federal bench. This request excludes 302 Reports generated by the FBI during the separate "Wrinkled Robe" investigation. A list of all 302 Reports in possession of Judge Porteous (with varying levels of redaction) is attached as Exhibit 1.

2. An unredacted version of the 309 pages of documents produced by the Department to the House on or about June 25, 2009. The cover letter to this exhibit is attached as Exhibit 2. This document contains a number of 302 Reports, many of which contain redactions.
3. An unredacted version of the document bates labeled PORT000000721, and attached to this letter as Exhibit 3.
4. An unredacted version of an FBI 302 Report dated December 18, 2002, regarding an interview with Norman Stotts.
5. An unredacted version of the 23 pages of documents produced by the Department to the House of Representatives on or about October 23, 2009. The cover letter to this exhibit is attached as Exhibit 4. This document contains numerous 302 Reports, which contain redactions.
6. All Department of Justice "Prosecution Memoranda" that reference or relate to Judge Porteous. The Department indicated in its July 19, 2010 letter that it would decline to provide this type of material directly to Judge Porteous. However, in the Judge Walter L. Nixon, Jr. impeachment proceedings, the Department provided prosecution memoranda to the Senate. See August 1, 1989 Letter from Department of Justice, attached as Exhibit 5.
7. All Department of Justice "Requests for Authorization to Indict" that reference or relate to Judge Porteous. In the Nixon impeachment proceedings, the Department provided "Requests for Authorization to Indict" to the Senate. See August 1, 1989 Letter from Department of Justice, attached as Exhibit 5.
8. All grand jury testimony taken or collected by the Department during its investigation of Judge Porteous, not in the possession of the parties. According to Judge Porteous, the following grand jury transcripts have been produced:
  - Ronald Bodenheimer – April 22, 2004
  - Claude Lightfoot – August 19, 2004, September 9, 2004, November 4, 2004, September 24, 2009, and October 29, 2007
  - Warren Forestall – March 17, 2006
  - Robert Creely – March 17, 2006
  - Donald Gardner – March 31, 2006
  - Rhonda Danos – March 31, 2006, and August 18, 2006
  - Leonard Levinson – April 7, 2006
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  - Jacob Amato – May 5, 2006
9. Any 302 Reports for Robert Rees or Bruce Netteville generated in either the Wrinkled Robe or Judge Porteous investigations.

10. An unredacted version of the Affidavit in Support of the Application for an Order Authorizing the Interception of Wire Communications, dated August 27, 2001.
11. Any orders issued by any court in response to the Affidavit in Support of the Application for an Order Authorizing the Interception of Wire Communications, dated August 27, 2001
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19. All records received by the Department in response to its subpoena to Beau Rivage (request #114), as listed on the Grand Jury Subpoena Log. According to the Grand Jury Subpoena Log, the Department received records related to this subpoena on October 30, 2006.

The Committee requests that the Department produce documents responsive to these requests directly to the Committee no later than September 1, 2010, in electronic form or otherwise provide a detailed explanation of why these requests are objectionable. On behalf of the Committee, I appreciate the Department's ongoing cooperation with these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Claire McCaskill". The signature is fluid and cursive, with the first name "Claire" written in a large, stylized loop.

Claire McCaskill  
Chairman

Enclosures

## FBI 302 Reports Produced to the Defense

1. Creely, Robert - 12/8/2003 - HP Ex. 19
2. Creely, Robert - 1/1/1994 - HP Ex. 250
3. Danos, Rhonda - 12/8/2003 - HP Ex. 42
4. Stotts, Norman - 12/18/2002 - HP Ex. 69(g) (extensive redactions, including whole pages omitted)
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6. Porteous, G. Thomas - 7/8/1994 - HP Ex. 69(i)
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8. Porteous, G. Thomas - 8/18/1994 - HP Ex. 69(k)
9. Reynolds, Michael - 11/3/1994 - HP Ex. 69(l)
10. Marcotte, Louis - 3/2, 23, 24, 25 & 29/2004 - HP Ex. 72(a) (excerpts only, whole pages omitted)
11. Marcotte, Louis - 4/21/2004 - HP Ex. 72(b)
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13. Marcotte, Louis - 4/1/2004 - HP Ex. 72(d)
14. Marcotte, Louis - 4/6/2004 - HP Ex. 72(e)
15. Marcotte, Louis - 7/20/2004 - HP Ex. 72(f)
16. Marcotte, Louis - 10/14/2004 - HP Ex. 72(g)
17. Marcotte, Lori - 3/3/2004 - HP Ex. 74(a)
18. Marcotte, Lori - 3/25/2004 - HP Ex. 74(b)
19. Marcotte, Lori - 3/30/2004 - HP Ex. 74(c)
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25. Duhon, Jeff - 11/13/2002 - HP Ex. 80(c)
26. Duhon, Jeff - 12/16/2002 - HP Ex. 80(d)
27. Duhon, Jeff - 8/5/2003 - HP Ex. 80(e)
28. Duhon, Jeff - 12/12/2002 - HP Ex. 80(f)
29. Duhon, Jeff - 1/29/2004 - HP Ex. 80(g)
30. Wallace, Aubrey - 10/1/2004 - HP Ex. 84
31. Bodenheimer, Ronald - 4/25/2003 - HP Ex. 89(a)
32. Bodenheimer, Ronald - 5/20/2003 - HP Ex. 89(b)
33. Bodenheimer, Ronald - 1/15-16/2003 - HP Ex. 89(c)
34. Bodenheimer, Ronald - 4/20/2004 - HP Ex. 89(d)
35. Greendyke, Ronald - 1/14/2005 - HP Ex. 333(b)
36. Beaulieu, S.J. - 1/22/2004 - HP Ex. 334
37. All 302 reports generated during the FBI's background check of Judge Porteous in 1994, and included in HP Ex. 69(b)





U.S. Department of Justice  
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 25, 2009

The Honorable John Conyers, Jr.  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

This supplements our prior response to the Committee's letter, dated March 31, 2009, which requested documents and other information relating to the Department's referral to the United States Court of Appeals for the Fifth Circuit pertaining to Judge G. Thomas Porteous, Jr.

Enclosed are 309 pages of records pertaining to the Senate confirmation of Judge Porteous, including his background questionnaire (SF 86), FBI 302 reports of interviews in connection with the background investigation, and other related documents. These records along with the documents we produced to the Committee on June 18, 2009, complete our response to your March 31, 2009, request for documents relating to the background investigation of Judge Porteous.

The enclosed documents bear limited redactions of personal information, such as social security numbers, date of births, cell phone numbers, non-public numbers, and other limited information implicating individual privacy interests. We also have redacted the names and personal information related to law enforcement personnel, and text that would identify sources who requested confidentiality during the course of the background investigation. Nonetheless, these records implicate substantial individual privacy interests and, accordingly, we request that you consult with the Department prior to disclosing their contents outside of the Committee.

We hope that this information is helpful. Please do not hesitate to contact us if you would like additional assistance with this or any other matter.

Sincerely,

Ronald Weich  
Assistant Attorney General

Enclosures

cc: The Honorable Lamar S. Smith

HP Exhibit 69(b)

1

NO 194-F  
77A-HQ-F

The following investigation was conducted by Special Agent (SA) S at New Orleans, Louisiana.

On October 26, 1994, E (Protect Identity) voluntarily appeared at the Federal Bureau of Investigation (FBI) office and made available to the Agent the following items:

Section 893, 893-1, and 894 of the Code of Criminal Procedures, Jefferson Parish arrest record re AUBREY N. WALLACE for the burglary and cocaine arrest, records from the 24th Judicial District Court, dated 1989 and December 15, 1988, and the candidate's report for Judge THOMAS PORTEOUS regarding financial disclosure forms.

E advised E had been talking to ROBERT REESE, defense attorney who had represented AUBREY WALLACE in the expungement before Judge THOMAS PORTEOUS. REESE had told E that he might consider talking with the FBI, and E made available REESE's phone numbers of P-1, E (home) and P-1, E (work). E

On October 28, 1994, E telephonically contacted the Agent and advised him that attorney BRUCE NETTERVILLE, LOUIS MARCOTTE and Judge PORTEOUS had gone to Las Vegas sometime during the last year, and the trip was supposedly paid for by LOUIS MARCOTTE. He also indicated that state probation and parole was probably going to violate AUBREY WALLACE for his employment with a bonding agency.

He advised that P-1, E is a major drug supplier, and that AUBREY is still working at the bonding office with LOUIS MARCOTTE which is a violation of state law. He stated he had talked to probation officer JILL OTT and it was their intention to appeal PORTEOUS' sentence as far as setting aside the conviction for AUBREY WALLACE. E stated he would attempt to determine more information regarding when and where they had stayed in Las Vegas, and he would get back with the Agent as soon as he could develop that information.

WORK COPY

PORT000000721



## U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

October 23, 2009

The Honorable John Conyers, Jr.  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

This supplements our prior responses to the Committee's letter, dated March 31, 2009, which requested documents and other information relating to the Department's referral to the United States Court of Appeals for the Fifth Circuit pertaining to Judge G. Thomas Porteous, Jr.

Enclosed are 22 pages of records pertaining to an investigation of Judge Porteous' compliance with a bankruptcy order, including FBI 302 reports of individuals interviewed in connection with that investigation. These documents bear limited redactions of personal information, such as social security numbers, date of births, cell phone numbers, non-public numbers, and other limited information implicating individual privacy interests. Similarly, we have also redacted the names and personal information related to law enforcement personnel, and the names of sources who requested that their identities not be revealed. Nonetheless, these records implicate substantial individual privacy interests and, accordingly, we request that you consult with the Department prior to disclosing their contents outside of the Committee.

Please do not hesitate to contact us if you would like additional assistance with this or any other matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ronald Weich", is located below the word "Sincerely,".

Ronald Weich  
Assistant Attorney General

Enclosures

cc: The Honorable Lamar S. Smith  
Ranking Minority Member

HP Exhibit 69(e)



## U.S. Department of Justice

Washington, D.C. 20530

AUG 1 1985

Donald A. Purdy, Jr., Esq.  
Counsel to the Committee  
United States Senate Impeachment  
Trial Committee  
Room Sh-902D  
Hart Senate Office Building.  
Washington, D.C. 20510

Dear Mr. Purdy:

Re: United States District Judge Walter L. Nixon, Jr.

Pursuant to the request of Senator Wyche Fowler, Jr., Chairman of the Senate Impeachment Trial Committee, the Department of Justice is providing the documents the Committee has requested concerning the investigation and prosecution of United States District Court Judge Walter L. Nixon, Jr. In some cases, where noted, redactions have been made to the documents to delete attorney work product. The documents provided are as follows:

1. Draft FBI Form, 302 Report of Interview of Stewart Sargent (4 pages).
2. Transcript of proffer of Wylie Fairchild on November 1, 1984 (9 pages).
3. Handwritten chronology (4 pages).
4. Memo, "Prosecution Memorandum of Carroll Ingram," dated December 7, 1984 (2 pages after redaction).
5. Memo, "Recommendation to Prosecute Paul H. 'Bud' Holmes," dated March 22, 1985 (9 pages after redaction).
6. Polygraph Report on Paul Hardin Holmes, dated July 12, 1985 (4 pages).
7. Handwritten notes (5 pages).
8. Handwritten "Drew Chronology" (9 pages).
9. Memo, "Request for Authorization to Indict Reditt 'Drew' Fairchild," dated March 18, 1985 (2 pages).

- 2 -

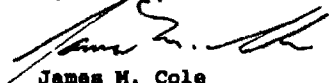
10. Memo, "Recommendation to Prosecute Drew Fairchild," dated March 22, 1985 (3 pages).
11. "Chart" (2 pages).
12. FBI Memo From SA Jerry Ripley to SAC Jackson, dated July 6, 1981 (2 pages).
13. Memo, "Recommendation to Prosecute United States District Judge Walter L. Nixon," dated July 9, 1985 (9 pages after redaction).
14. Memo, "Recommendation to Prosecute United States District Judge Walter L. Nixon," dated July 22, 1985 (9 pages after redaction).
15. Memo, "Request for Authorization to Apply for Disclosure of Tax Returns -- Walter L. Nixon," dated July 9, 1985 (2 pages).
16. Memo, "United States v. Paul H. 'Bud' Holmes: Marshals Service Staffing," dated June 6, 1985 (4 pages).
17. Handwritten notes, "Wallace Gunn TC 10/2/85" (1 page).
18. Memo, "Mississippi Investigation," dated April 30, 1984 (3 pages after redaction).
19. FBI Form 302, Report of Interview of Elma Manasco, dated November 6, 1984 (1 page).
20. Handwritten notes, first page headed "Weldon Kennedy," dated March 5, 1984 (13 pages).
21. FBI Form 302, Report of Interview of Thomas L. Dial, dated August 28, 1984 (2 pages).
22. FBI Form 302, Report of Interview of Captain James R. Kelly, dated January 24-25-26, 1984 (3 pages).
23. FBI Form 302, Report of Interview of Tom Dial, dated November 15, 1983 (2 pages).
24. FBI Form 302, Report of Interview of Robert Royals, dated January 9, 1986 (2 pages).
25. Handwritten note, headed "Ingram" (3 pages).
26. FBI Form 302, Report of Interview of Billy Riley, dated November 28, 1984 (2 pages).

- 3 -

27. Handwritten note, headed "Bud and Fanning . . ."  
(1 page).
28. Letter from Jack Morton, Deputy Regional Counsel, IRS,  
to Honorable Glenn L. Archer, Jr., Assistant Attorney  
General, Tax Division, dated December 16, 1985 (5 pages).
29. Memo, "Status Report re: The Petit Bois Bribe  
Investigation," dated November 19, 1985 (20 pages after  
redaction).
30. Handwritten notes, headed "McMullan Proffer" (10 pages).
31. "Daily Report" for May 7, 1985 (2 pages).
32. "Walter Louis Nixon, Jr., ET AL, Narcotics Case -  
Background" (18 pages).

Should the Committee have any further questions concerning  
this matter, please feel free to contact me at 786-5059.

Sincerely,



James M. Cole  
Deputy Chief  
Public Integrity Section  
Criminal Division

Enclosures



**U.S. Department of Justice**  
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D. C. 20530

August 27, 2010

The Honorable Claire McCaskill  
Chairman  
The Honorable Orrin G. Hatch  
Vice Chairman  
Impeachment Trial Committee  
United States Senate  
Washington, DC 20510

Dear Madam Chairman and Mr. Vice Chairman:

This responds to the Committee's requests, as described by your staff in a meeting with Department representatives on July 30, 2010, for FBI reports of interviews (FD-302s) of Judge Ronald Bodenheimer following his plea to federal charges arising from the investigation known as "Wrinkled Robe." The Department does not have significant confidentiality interests in these documents and we recognize that they may be relevant to the Senate impeachment trial of Judge Porteous. We also have enclosed a FD-302 pertaining to the FBI's interview of Ms. Sandra Rasnac, Assistant United States Trustee for Region 11, relating to the bankruptcy proceedings filed by Judge Porteous.

Enclosed are 102 pages of documents responsive to your requests. The enclosed documents bear limited redactions of personal information, such as social security numbers, date of births, cell phone numbers, non-public numbers, and other limited information implicating individual privacy interests. Similarly, we have also redacted the names and personal information related to law enforcement personnel, and the names of sources who requested that their identities not be revealed. Nonetheless, these records implicate substantial individual privacy interests and, accordingly, we request that you consult with the Department prior to disclosing their contents outside of the Committee.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this, or any other matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "mweich", is located below the "Sincerely," text.

Ronald Weich  
Assistant Attorney General

Enclosures



P.J. Meitl  
Direct: (202) 508-6043  
pj.meitl@bryancave.com

August 27, 2010

**VIA EMAIL**

Derron Parks, Esq.  
Senate Impeachment Trial Committee  
United States Senate  
Russell Senate Office Building, Room B-34A  
Washington, D.C. 20002

Re: *Impeachment of Judge G. Thomas Porteous, Jr.*

Dear Mr. Parks:

As I discussed with you in a teleconference earlier today, we received your email dated August 27, 2010. This letter is to inform you that, today, the defense produced to the House fifty-four different documents as part of its reciprocal discovery. A large number of these documents, such as the criminal records of certain House witnesses, were already in the House's possession. Indeed, as we mentioned during yesterday's meeting, most of the exhibits previously identified by the government are likely to be used by the defense since they constitute foundational records in the case. Other documents, such as judicial opinions and judicial codes of conduct, were publicly available. We will continue to produce material as it is identified and becomes available to us.

We take very seriously the Committee's orders and our discovery obligations. We do not believe that we failed to comply with our discovery obligations or disregarded the Committee's orders. We understand our obligation to be exactly what the House requested and the Committee ordered – namely that we produce, as it become available, the following three categories of documents: “(1) any tangible evidence Judge Porteous intends to use at trial; (2) any sworn or adopted statements from witnesses whom Judge Porteous intends to call at trial; and (3) transcripts or substantially verbatim statements of witnesses whom Judge Porteous intends to call at trial.” (See House Motion for Discovery, dated May 28, 2010, which was subsequently agreed to by defense, and ordered by the Committee in its June 9, 2010 Order.)

As you know, given our late entry into this case, we have been working feverishly to meet the Committee's deadlines and to prepare Judge Porteous's defense. We have been unable until this week to focus extensively on the documentary

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August 27, 2010  
Page 2

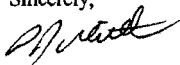
Bryan Cave LLP

evidence that we intend to use at trial. That process necessarily requires us to consult with our witnesses, consider our defense strategy, and confer with our client. This process has taken time. I can assure you that we have not been sitting on responsive documents for weeks.<sup>1</sup> We will continue to produce documents as they are identified and become available.

Also, please know that the defense sincerely appreciates all of the Committee's efforts to ensure that the House has met its discovery obligations and to obtain materials that the defense has requested from the Department of Justice.

Please let me know if you have any questions.

Sincerely,



P.J. Meidl

---

<sup>1</sup> As I explained to you in our teleconference today, the defense does not currently possess and does not anticipate receiving any documents responsive to the second category (sworn witness statements) that the House has not already identified and/or previously produced. With regard to the third category of documents (transcripts or substantially verbatim witness statements), the Defense necessarily had to wait for the Committee's decision on the admission of prior testimony before identifying such exhibits. Moreover, the House is already in possession of all documents that would be responsive to this category of documents.

**In The Senate of The United States  
Sitting as a Court of Impeachment**

	)
In re:	)
Impeachment of G. Thomas Porteous, Jr.,	)
United States District Judge for the	)
Eastern District of Louisiana	)
	)

**JUDGE G. THOMAS PORTEOUS, JR.'S MOTION FOR SUBPOENAS  
TO BE ISSUED TO DEPARTMENT OF JUSTICE ATTORNEYS**

Judge G. Thomas Porteous, Jr. respectfully moves the Senate Impeachment Trial Committee (the "Committee") to issue subpoenas to two witnesses, listed on the defense's subpoena and witness requests, but omitted from the list of "Witnesses Subpoenaed by the U.S. Senate Impeachment Trial Committee," which was attached to the Committee's August 25, 2010 Order Designating the Contents of Pre-Trial Statements.

**PROCEDURAL BACKGROUND**

On August 2, 2010, and pursuant to the Committee's Order, Judge Porteous submitted his Requests for Subpoenas and Immunity. Included on this list were two Department of Justice ("DOJ" or "Department") Public Integrity Section attorneys, Daniel A. Petalas, Esq. and Peter S. Ainsworth, Esq. Judge Porteous stated in his subpoena request that he expected both Petalas and Ainsworth to "testify about the government's investigations of Judge Porteous and the decision not to prosecute Judge Porteous." Such information could be critical in analyzing the strength of the evidence underlying the Articles of Impeachment, especially when compared with the evidence necessary to indict and convict a person for similar alleged offenses.

On August 26, 2010, the Committee issued its Order (dated August 25, 2010) Designating the Contents of Pre-Trial Statements and attached a list of "Witnesses Subpoenaed

by the U.S. Senate Impeachment Trial Committee.” The list included every non-expert witness requested by the House of Representatives, except FBI Agent DeWayne Horner. The list omitted, however, not only Judge Porteous’s experts, but also the two DOJ lawyers (Petalas and Ainsworth) discussed above.

At the Committee Staff’s meeting with the parties on August 26, 2010, the defense raised the omission of these individuals. The Staff and Senate legal counsel indicated that subpoenas for Petalas and Ainsworth had not been issued because they assumed that their testimony would be focused either on recounting what they heard from other witnesses (who could be called directly by Judge Porteous) or would relate solely to the Department’s investigation of Judge Porteous. The defense made clear that both of these assumptions were incorrect.

Accordingly, the Committee Staff advised the defense that, if Judge Porteous sought to provide further information with regard to why these two individuals should receive subpoenas, the defense should file this motion with the Committee.

#### **ARGUMENT**

The defense requests that the Senate issue subpoenas to Daniel Petalas and Peter Ainsworth because they are material fact witnesses who will provide important testimony relevant to the Senate’s determination of the ultimate issues in this matter. Their testimony would be similar in nature to the expected testimony of a House witness (Mr. Goyeneche) – for whom a subpoena has already been issued. Therefore, denial of the issuance of subpoenas to Messrs. Petalas and Ainsworth is inconsistent with the Committee’s actions with regard to House witnesses. Finally, relevant court precedent suggests that non-participating prosecutors can be and are properly called as witnesses in certain matters.

As an initial matter, the DOJ's determination not to prosecute Judge Porteous is a crucial aspect of the defense and should be a material factor in the Senate's determination of whether the allegations lodged against Judge Porteous rise to the level of an impeachable offense. Although the defense concedes that an individual does not have to have been criminally prosecuted to be convicted by the Senate for a "high crime or misdemeanor," that has been the case for every impeached judge in recent history. That is partly because Congressional action to impeach, convict, and remove a sitting federal judge was intended by the Constitution's framers to be a more difficult and arduous process than obtaining a criminal indictment, not less so. In an impeachment trial, the fact that an individual was investigated but not indicted for the same allegations as a number of other judges who were indicted (and, in some cases, convicted) is not only a relevant factor but could prove to be a crucial aspect to the Senate's deliberations regarding the materiality and significance of similar allegations raised against Judge Porteous in the Articles of Impeachment.

The Committee should want to hear evidence related to the DOJ's decision not to prosecute Judge Porteous. Up until now, the evidence regarding this point is limited to a single paragraph, in a single letter, issued by the Department. Specifically, in a May 18, 2007 letter to Judge Edith Jones, the DOJ stated:

The Department has determined that it will not seek criminal charges against Judge Porteous . . . In reaching its decision not to bring other available charges that are not time barred, the Department weighed the government's heavy burden of proof in a criminal trial, and the obligations to carry that burden to a unanimous jury, concerns about the materiality of some of Judge Porteous's provably false statements, the special difficulties of proving *mens rea* and intent to deceive beyond a reasonable doubt in a case of this nature; and the need to provide consistency in charging decisions concerning bankruptcy and criminal contempt matters.

(HP Ex. 4.) This paragraph raises numerous questions that need to be explored further with the relevant DOJ officials. Moreover, the letter, already in the record, is incomplete because it fails to note that Judge Porteous signed several agreements with the Department tolling the applicable statutes of limitation, ameliorating the Department's (and the House's) claim that the decision not to prosecute Judge Porteous was based heavily on certain charges being time barred. The testimony of Messrs. Petalas and Ainsworth could provide significant additional information related to these issues. Moreover, the defense is unaware of other witnesses who could testify to this same subject. Therefore, without their testimony, the Committee would be forced to rely solely upon the letter itself, without context and without the ability to probe deeper into the Department's decision.<sup>1</sup> Moreover, these attorneys are fact witnesses, as opposed to simple investigators, with regard to certain issues raised by the Articles of Impeachment. For example, during Judge Porteous's bankruptcy, Department of Justice attorneys, including Daniel Petalas, met with the Chapter 13 Bankruptcy Trustee, S.J. Beaulieu, and provided him with information that they had learned as part of their investigation of Judge Porteous. Initially, the Department told Mr. Beaulieu that he could not use the information with regard to his oversight of Judge Porteous's bankruptcy. (See SC 00409, attached as part of Ex. 1.) Later, however, the Department told Mr. Beaulieu to "take whatever action he felt appropriate" and that he "was instructed to use whatever powers he has" with regard to the

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<sup>1</sup> During their meeting with counsel on August 26, 2010, Committee Staff noted that the Department's determination of whether to bring criminal charges is materially different than the Senate's determination of whether or not to convict an impeached federal judge. The defense agrees but notes that the Senate must, like the Department, determine the appropriate standard of proof, consider the materiality of the alleged offenses, concern itself with the consistency of its actions in relation to other judges, and weigh Judge Porteous's *mens rea* with regard to any acts that he is determined to have committed. Just as the Senate considered the criminal convictions of former judges Walter Nixon and Harry Claiborne as relevant evidence in their prior impeachment cases, this evidence is relevant and highly material in this matter.

information that the DOJ had provided to him. (*See* SC 00416, attached as part of Ex. 1.) Mr. Beaulieu, through a staff attorney, responded to the Department and stated that he did not intend to take any further action against Judge Porteous because “he had no evidence to support the suspicions expressed by the FBI agents.” (*See* SC 00417, attached as part of Ex. 1.)

Further, the refusal to subpoena Messrs. Petalas and Ainsworth is inconsistent with the Committee’s issuance of subpoenas to other witnesses. The House of Representatives has requested, and the Committee has issued, a subpoena for Metropolitan Crime Commission (“MCC”) Director Rafael Goyeneche. In 1994, the MCC purportedly investigated Judge Porteous in relation to the expungement of the criminal record of Aubrey Wallace. Mr. Goyeneche’s staff interviewed several individuals and Mr. Goyeneche, along with another MCC employee, interviewed Judge Porteous (a summary of which is included in a House Exhibit). (*See* HP Ex. 85.) Prior to July 1994, however, Mr. Goyeneche did not even know who Judge Porteous was. (*See* PORT000000423, as found in HP Ex. 69(b).) Furthermore, it appears that the MCC did not interact with or investigate Judge Porteous at any time after late 1994.

Mr. Goyeneche has not been offered as an expert witness. Instead, the House has indicated that his testimony would relate only to the MCC’s investigation of Judge Porteous and his recounting of facts and statements made to him by individuals that he interviewed. The fact that Mr. Goyeneche’s investigation occurred in 1994, as opposed to the DOJ’s investigation from the late 1990s through the early 2000s, is a distinction without a difference. The Articles of Impeachment allege activities that span this entire time frame.

Messrs. Petalas and Ainsworth are being called for many of the same reasons as Goyeneche. For the sake of consistency, therefore, if the House is allowed to call Goyeneche, the defense should be allowed to call Petalas and Ainsworth. As discussed above, the testimony

of Petalas and Ainsworth is even more significant given their ability to bring criminal charges against Judge Porteous.

Finally, courts have demanded that former prosecutors appear as witnesses in certain circumstances. See *United States v. Williamson*, 1997 U.S. App. LEXIS 5866 (4th Cir. Mar. 27, 1997) ("A prosecutor may be called as a defense witness if the defendant has a compelling need for his testimony"); see also *Cervi v. Kemp*, 855 F.2d 702 (11th Cir. 1988) (calling prosecutor as defense witness at extradition hearing). Although some courts have been reluctant to allow prosecutors to be called as witnesses or have required the defense to show a compelling need, such results tend to occur only where the prosecutor being called is actively and currently participating in the prosecution of the accused. See *United States v. Tamura*, 694 F.2d 591, 601 (9th Cir. 1982) (requiring the defendant to demonstrate a "compelling need" before a participating prosecutor will be permitted to testify.)

Due to the compelling need for their testimony, Judge Porteous respectfully requests that the Committee issue subpoenas to Daniel Petalas and Peter Ainsworth.

Respectfully submitted,

/s/ Jonathan Turley  
Jonathan Turley  
2000 H Street, N.W.  
Washington, D.C. 20052  
(202) 994-7001

/s/ Daniel C. Schwartz  
Daniel C. Schwartz  
P.J. Meitl  
Daniel T. O'Connor  
BRYAN CAVE LLP  
1155 F Street, N.W., Suite 700  
Washington, D.C. 20004  
(202) 508-6000

Counsel for G. Thomas Porteous, Jr.

2100

United States District Court Judge  
for the Eastern District of Louisiana

Dated: August 29, 2010



**CERTIFICATE OF SERVICE**

I hereby certify that on August 28, 2010, I served copies of the foregoing by electronic means on the House Managers, through counsel, at the following email addresses:

Alan Baron – [abaron@scyfarth.com](mailto:abaron@scyfarth.com)

Mark Dubester – [mark.dubester@mail.house.gov](mailto:mark.dubester@mail.house.gov)

Harold Damelin – [harold.damelin@mail.house.gov](mailto:harold.damelin@mail.house.gov)

Kirsten Konar – [kkonar@scyfarth.com](mailto:kkonar@scyfarth.com)

Nafees Syed – [nafees.syed@mail.house.gov](mailto:nafees.syed@mail.house.gov)

/s/ P.J. Meitl

# Exhibit 1

- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription 01/23/2004

S.J. BEAULIEU, Jr. was interviewed at his office located in Metairie, Louisiana regarding a Chapter 13 bankruptcy filed by GABRIEL T. PORTEOUS JR. and CARMELLA A. PORTEOUS. Also present for the interview was Department of Justice Public Integrity Attorneys NOAH BOOKBINDER and DAN PETALAS. BEAULIEU was advised of the identities of the interviewing agents and the purpose of the interview. BEAULIEU then furnished the following information:

Prior to the commencement of the interview, BOOKBINDER instructed BEAULIEU that any information provided to BEAULIEU through the course of the interview could not be used in the administration of the PORTEOUS' bankruptcy. BOOKBINDER told BEAULIEU that at a later date the Department of Justice would provide BEAULIEU guidance on the use of the information gained by BEAULIEU through the interview.

BEAULIEU has been a chapter 12 and 13 bankruptcy trustee for approximately 17 years. BEAULIEU received an accounting degree from The University of New Orleans, located in New Orleans, Louisiana.

All people who file bankruptcies are treated the same. It does not matter if the debtor is a doctor, attorney or judge, they are all treated the same. After a petition is filed, BEAULIEU requires the debtor to provide a copy of a normal pay stub, unless the debtor is self employed then tax returns are needed. BEAULIEU likes pay stubs because they frequently contain year to date information. The pay stub also contains information on deductions like 401(k) payments. Frequently some of the deductions like 401(k) payments will be added back into the net income of the debtor for bankruptcy payment purposes.

Forty days after a debtor files a petition, a 341 hearing is held. Barring any problems, twenty days after the 341 hearing the debtors plan is confirmed. Some problems that could arise for debtors include a failure to list a lawsuit or failure to list a succession interest.

Presently husband and wives are required to appear at the 341 hearing. This has been required for about the last year. Prior to the requirement of husband and wives having to appear,

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Investigation on 1/22/04 at Metairie, Louisiana

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File # 58B-NO-65144 Date dictated 1/23/04  
by SA Patirck K. Bohrer, FA Gerald D. Fink,  
SA DeWayne J. Horner:djh

SC00409

58B-NO-65144

Continuation of FD-302 of S.J. Beaulieu, Jr., On 1/22/04, Page 2

only one spouse was required to appear if they could answer questions regarding the financial affairs of the debtors. Also social security numbers of the debtors are now verified.

Chapter 13 debtors are not allowed to use credit or obtain new credit without the approval of the trustee. In order to get the credit approved a motion and order is required. Debtors are not allowed to use credit cards without the approval of the trustee. Additionally, debtors are not allowed to obtain new credit cards after filing the bankruptcy petition without approval.

After the debtor is confirmed, hopefully BEAULIEU never sees the debtor again. As long as the debtors make the required payment to the trustee, no contact with the debtors is needed. If a debtor becomes one and a half months delinquent, then a motion to dismiss the petition is filed. Debtor payback plans can range from 0% to 100% payback. It is advantageous for a debtor to agree to a 70% or greater payback plan. Anything less than 70% payback plan and the debtor cannot file another bankruptcy for six years. BEAULIEU reviews the assets of the debtor and tries to determine if any equity exists in the assets which can be turned over to the unsecured creditors.

BEAULIEU objects to all new credit applications by debtors and sends the application to the bankruptcy judge. Sometimes new credit applications are approved, if they improve the position of the debtor, such as when a debtor purchases a new home and the house payment would be less than paying rent. Other times debtors need to purchase cars and those transactions may be approved. However, a debtor is not allowed to create new debt after filing bankruptcy without approval. If a debtor creates new debt without approval, the debtor has violated the bankruptcy code. Debtors are instructed at the 341 hearing not to incur new debt without approval. Also they are given a brochure which also explains that they are not allowed to create new debt without approval. If debtors do not receive the brochure, then BEAULIEU is confident the attorney representing the debtor will instruct the debtor not to incur new debt. If a debtor incurs new debt without approval a motion to dismiss the case is filed.

If an attorney and debtor filed a bankruptcy application with a false name and the attorney and debtor filing the petition knew the name was false, they should be prosecuted. Schedules filed by debtors should be accurate and any questions should be

SC00410

58B-NO-65144

Continuation of FD-302 of S.J. Beaulieu, Jr., On 1/22/04, Page 3

answered truthfully. BEAULIEU looks at the totality of the circumstances surrounding a bankruptcy petition.

Normally creditors appear at 341 hearings when creditors know an omission exists in a bankruptcy application and/or schedule. Also sometimes creditors will appear if a debtor has not cooperated.

Debtor tax refunds are supposed to be turned over to the trustee. BEAULIEU sends the Internal Revenue Service (IRS) a notice that the debtor has filed bankruptcy and any tax refund should be sent to the trustee. However, on occasion the IRS has not been able to send debtor refunds to the trustee. Tax refunds are used to increase amounts paid to creditors. Usually if a debtor receives a refund from the IRS, the debtor will call the trustee's office and ask what to do with the refund.

If the PORTEOUS' were to receive any income tax refunds they should have disclosed that fact to BEAULIEU. BEAULIEU would then have required the PORTEOUS' to turn the income tax refund over to him and it would have been distributed to the unsecured creditors. If the PORTEOUS' usually receive a tax refund, or if they knew they were going to receive a tax refund, and they did not disclose the refund to BEAULIEU and the bankruptcy court, then that is a bad faith bankruptcy filing. Additionally, LIGHTFOOT knows tax refunds are to be turned over to the bankruptcy trustee. Also GABRIEL PORTEOUS had an opportunity to receive the "Your Rights and Responsibilities in Chapter 13" brochure and was given the same speech all other debtors receive at the 341 hearing.

If a debtor should break an individual retirement account (IRA) during bankruptcy, BEAULIEU does not know if the exemption then expires. If a debtor should break an IRA, BEAULIEU would like to see the debtors come in and ask if the breaking of an IRA would have bankruptcy implications.

BEAULIEU knows CLAUDE LIGHTFOOT. BEAULIEU considers LIGHTFOOT one of the better bankruptcy attorneys in New Orleans. In fact, BEAULIEU respects LIGHTFOOT's legal expertise as it relates to bankruptcy. LIGHTFOOT is one of the eight or nine primary attorneys who file chapter 13 bankruptcy cases. LIGHTFOOT is able to get the required facts from his clients and present them to BEAULIEU. Usually attorneys are paid through the chapter 13 plan. However, it makes no difference if an attorney is paid inside or outside the plan.

SC00411

58B-NO-65144

Continuation of FD-302 of S.J. Beaulieu, Jr., On 1/22/04, Page 4

After LIGHTFOOT filed the PORTEOUS' bankruptcy petition he telephoned BEAULIEU. LIGHTFOOT called BEAULIEU to give him a "heads up" that the petition was being filed. The petition filed by LIGHTFOOT was a "quickie" petition which is designed to get the debtor into bankruptcy fast. The PORTEOUS' petition was filed with a list of creditors and no schedules. BEAULIEU may have asked LIGHTFOOT why it took ten days to correct the name. BEAULIEU could not remember LIGHTFOOT's response.

After the petition is filed a stay is put into effect. The stay will put a hold on foreclosures and lawsuits. The petition goes to the bankruptcy court and BEAULIEU is appointed the trustee. When the petition is filed it is entered into BEAULIEU's office system. The names are input and the case is assigned an identification number.

The notices to creditors in the PORTEOUS' bankruptcy were sent out on April 19, 2001, after the schedules were filed. The 341 hearing was scheduled for May 9, 2001 at 9:30 a.m. BEAULIEU did not look at the petition until the day before the 341 hearing.

BEAULIEU thought the PORTEOUS' did not put their real name on the petition to keep the bankruptcy filing out of the newspaper. BEAULIEU thought, maybe the incorrect names contained on the petition could have been a misspelling. The fact that the PORTEOUS' listed an incorrect name did not matter to BEAULIEU because the notices sent to the creditors contained the PORTEOUS' correct name.

BEAULIEU did not care that the PORTEOUS' listed a post office box as the street address of the debtor on the petition. The notices sent to the creditors contained the post office box as the PORTEOUS' address. The notices also included the PORTEOUS' correct social security number. Eventually the PORTEOUS' changed the address to 4801 Neyrey Drive, Metairie, Louisiana, 70002. Sometimes debtors list post office boxes on bankruptcy applications because they are trying to avoid service of process.

Four or five unsecured creditors did not file proof of claims in the PORTEOUS' bankruptcy. The amount of money the four or five creditors did not claim was about \$30,000. As a result on August 8, 2001, the PORTEOUS' payback percentage for the unsecured creditors who did file a proof of claim was increased from 27.5% to 34.5%.

SC00412

58B-NO-65144

Continuation of FD-302 of S.J. Beaulieu, Jr., On 1/22/04, Page 5

On May 9, 2001, at 9:30 a.m. BEAULIEU called the hearing to order in the PORTEOUS' bankruptcy. However, no creditors were present so BEAULIEU held the hearing at 3:30 p.m. BEAULIEU did this so that GABRIEL PORTEOUS would not appear at the hearing in front of his peers. BEAULIEU would do this again for any attorney. BEAULIEU did not know GABRIEL PORTEOUS before he filed bankruptcy. BEAULIEU remembered only GABRIEL PORTEOUS and LIGHTFOOT appeared at the hearing. BEAULIEU did not have a problem with this because at the time of the hearing only one spouse with knowledge of the financial affairs had to appear.

Debtors are supposed to list normal living expenses on schedule J. The first schedule J submitted by the PORTEOUS' contained excessive food, clothing, charity and dependent expenses. That is why the original percentage payback plan was not approved. If the payback plan is not a 100% payback then the payment of tuition expenses is not permitted, unless the child is physically or mentally disabled. BEAULIEU figured LIGHTFOOT tried to get what he could in the first schedule J.

The PORTEOUS' should have listed any monthly income earned by CARMELLA PORTEOUS on schedule I. Additionally, GABRIEL PORTEOUS should have submitted a more recent pay stub, instead of the May 31, 2000 pay stub provided. BEAULIEU admitted he did not notice the pay stub was not current until it was pointed out to him by the interviewing agents. However, had he noticed the pay stub was not current he would have required a more recent one. If the PORTEOUS' income varies by more than ten percent, the PORTEOUS' are required to file an amended schedule I. Some people have notified BEAULIEU that they are making more money post petition.

PORTEOUS' were not on wage control, because this was their first bankruptcy. BEAULIEU does not take personal checks or cash from debtors making payments. BEAULIEU only accepts money orders or certified checks.

The PORTEOUS' were required to list personal property on schedule B. On schedule B the PORTEOUS' listed the balance in their Bank One checking account as \$100.00. However, if the PORTEOUS' had more money in the account and it was not set aside for a house payment or other similar type payment, they should have disclosed the correct amount. Whether or not this was bad faith needs to be judged on a case by case basis. The trustees job is to get creditors paid, and if more money is available then BEAULIEU brings in the debtors and the dispute is worked out.

SC00413

58B-NO-65144

Continuation of FD-302 of S. J. Beaulieu, Jr., On 1/22/04, Page 6

If BEAULIEU had known, CARMELLA PORTEOUS received a \$14,000 legacy in June of 2000, he would have asked the PORTEOUS' for more information. Specifically, BEAULIEU would have wanted to know if the money was used to pay off an insider. If the PORTEOUS' used the money to pay an insider, BEAULIEU would have wanted the money turned over to the trustee. However, then BEAULIEU thought the legacy did not need to be listed in Schedule B, but should have been listed in question 2 of the statement of financial affairs. Had BEAULIEU known about the legacy he would have asked the PORTEOUS' for more information because the legacy was received within two years.

If the PORTEOUS' had cash income they should have listed it on Schedule I. If the PORTEOUS' monthly expenses are twenty percent more than what they listed on amended schedule J, that implies the PORTEOUS' have income that was not disclosed to the trustee. BEAULIEU would have a real problem, with the PORTEOUS' bankruptcy filing if this was the case.

If someone was paying expenses for GABRIEL PORTEOUS, and GABRIEL PORTEOUS owed that person money at the time the petition was filed, the person should have been listed in Schedule F as an unsecured creditor. If GABRIEL PORTEOUS continues to pay the person within the requirements of question 3 in the statement of financial affairs, they should be listed in question 3 of the Statement of Financial Affairs. If GABRIEL PORTEOUS continues to pay this person then he has created a preferred creditor. If the debt was created after GABRIEL PORTEOUS filed the bankruptcy petition, and PORTEOUS did not pay what was owed, the person could sue GABRIEL PORTEOUS because they were not listed as a creditor in the bankruptcy.

If the PORTEOUS' paid off a credit card company just before filing for bankruptcy, the PORTEOUS' should have disclosed this in the Statement of Financial Affairs. Similarly, if the PORTEOUS' had paid off a casino before filing bankruptcy, BEAULIEU would want to have known about that fact. BEAULIEU would want to know where the PORTEOUS' got the money to pay off a casino and credit card before filing bankruptcy.

The PORTEOUS' should have listed charitable contributions in question number 7 of the Statement of Financial Affairs. BEAULIEU would have required the PORTEOUS' to provide proof that the money went to a charity. However, if the money was given to a charity, BEAULIEU would not have required the charity to return the

SC00414



58B-NO-65144

Continuation of FFD-302 of S.J. Beaulieu, Jr., On 1/22/04, Page 7

money. However, if the money was not given to a charity, BEAULIEU would have required the money be returned to the trustee.

The PORTEOUS' are not required to report gaming losses post petition, unless they obtained a marker. Gaming losses post petition do not have an impact on BEAULIEU's decision on whether or not to discharge a case.

The PORTEOUS' were required to make a full complete and truthful disclosure to the bankruptcy court.

Had BEAULIEU known about CARMELLA PORTEOUS' income, the PORTEOUS' tax refunds, payments to credit card companies and casinos, the obtaining of new credit after filing and the extra money in the Bank One checking account he would have referred the case to the United States Trustee.

BEAULIEU provided the following identifying information:

Name:	S.J. BEAULIEU JR.
Race:	White
Sex:	Male
Work Address:	433 Metairie Road Suite 307 Metairie, LA, 70005
Work telephone number:	(504) 831-1313 x231
Date of Birth:	[REDACTED]

SC000415

- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription 03/04/2004

On 3/4/04 Department of Justice Public Integrity Attorney Noah Bookbinder placed a conference call to S.J. BEAULIEU JR. at (504) 831-1313 Ext. 231, regarding the Chapter 13 Bankruptcy of GABRIEL T. PORTEOUS and CARMELLA A. PORTEOUS. Also participating in the conference call was Department of Justice Public Integrity Attorney Dan Petalas, Federal Bureau of Investigation Special Agents Patrick K. Bohrer and DeWayne J. Horner as well as Financial Analyst Gerald D. Fink. BEAULIEU was advised of the identities of all the parties taking part in the conference call and the nature of the call. BEAULIEU then furnished the following information:

After answering the telephone BEAULIEU told the callers he had a class to attend and only had ten minutes for the call.

Regarding the discharge of the PORTEOUSES Bankruptcy Bookbinder told BEAULIEU the position of the Department of Justice was that BEAULIEU should take whatever action he felt appropriate, based upon the questions and information provided during the interview of BEAULIEU. The Department of Justice will not make a recommendation to BEAULIEU regarding the PORTEOUSES Bankruptcy. Also the Department of Justice will not provide any additional information regarding the Bankruptcy to BEAULIEU.

Bookbinder told BEAULIEU he (Bookbinder) wanted to lift the earlier restriction placed on BEAULIEU to not do anything relative to the PORTEOUSES Bankruptcy. BEAULIEU was instructed to use whatever powers he has if he decided to take any action in the PORTEOUSES Bankruptcy.

BEAULIEU stated he would take care of what he needed to take care of in the PORTEOUSES Bankruptcy.

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Investigation on 3/4/04 at New Orleans, Louisiana

File # 58B-NO-65144Date dictated 3/4/04by SA Patrick K. Bohrerby FA Gerald D. Fink, SA DeWayne J. Horner:djh

SC00416

APR-07-2004 13:19

NEW ORLEANS LA

504 816 3306 P.02

**S. J. Beaulieu, Jr.**433 Metairie Road, Suite 307  
Metairie, Louisiana 70005

CHAPTER 13 TRUSTEE

(504) 831-1313

April 1, 2004

Federal Bureau of Investigation  
Attn: Wayne Homer  
2901 Leon C. Simon Dr.  
New Orleans, LA 70126

In re: In Re Gabriel T. Porteous, Jr & Carmella A. Porteous  
Case No.: 01-12363

Dear Mr. Horner:

I am Staff Attorney for S. J. Beaulieu, Jr., Chapter 13 Trustee. This letter is to respond to a conversation of Mr. Beaulieu with one of the FBI agents earlier this month.

In January, 2004, at the request of the FBI, Mr. Beaulieu met with you and several other agents. Prior to that meeting, the FBI refused to divulge why the meeting was needed or what would be discussed at the meeting. During the meeting, it was disclosed that Mr. Beaulieu was being interviewed with respect to an ongoing investigation into the captioned Chapter 13 case and debtors' activities regarding same. Also, during the meeting, the agents discussed some allegations concerning potential bankruptcy improprieties involving debtors related to: filing the original petition with their name misspelled, undisclosed income, income tax refunds, the use of credit cards, transfers of property, and lifestyle activities that might not be consistent with the debtors' schedule "J" disclosures.

In the conversation this month, the FBI agent advised Mr. Beaulieu that he should pursue further investigation into debtors' activities in this case. However, the only allegation that the Trustee has evidence of relates to debtor's FICA tax withholding which should have stopped after the FICA withholding limits were met. The additional income to debtor was not taken into account in evaluating debtors' disposable income to fund the Chapter 13 plan over three (3) years. In Mr. Beaulieu's opinion, extending the plan at this late date to recoup the difference in disposable income would not substantially increase the percentage paid to unsecured creditors.

Regarding the other allegations, the FBI has refused to provide the Trustee with any evidence of improprieties by debtors. Since Mr. Beaulieu has no evidence to support the suspicions expressed by the FBI agents, he does not intend to take further action related to these allegations.

I am enclosing a copy of the Final Account prepared in this case. The case is currently set for a Final Account hearing on May 18, 2004, at 8:40 a.m. You may file an objection to the

SC00417

APR-07-2004 13:19

NEW ORLEANS LA

504 816 3306 P.03

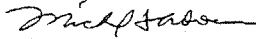
Federal Bureau of Investigation  
Attn: Wayne Horner  
April 1, 2004  
Page 2

Trustee's Final Account or you may provide Mr. Beaulieu with evidence of wrongdoing and same will be investigated.

If further information is required, please feel free to contact me at your convenience.

With kindest regards, I am

Sincerely,



Michael F. Adoue  
Staff Attorney (Ext. 222.)

Enclosure

cc: R. Michael Bolen  
United States Trustee, Region 5

SC00418

APR-07-2004 13:19

NEW ORLEANS LA

504 816 3306 P.04

<b>United States Bankruptcy Court</b> <i>Eastern District of Louisiana</i>		01-12363 Case Number
<b>CHAPTER 13 TRUSTEE'S FINAL REPORT AND ACCOUNT</b>		
In re: GABRIEL T PORTEOUS JR CARMELLA A PORTEOUS  4801 NEYREY DR METAIRIE LA 70002	This case was: <b>COMPLETED</b>  Final Meeting of Creditors: 8:40 AM, May 18, 2004	

S. J. Beaulieu, Jr., Chapter 13 Trustee, respectfully submits for the Court's approval a report of his administration of this estate, avers that the case has been fully administered pursuant to FRBP 5009, and prays that he be relieved of his trust. The total amount received from or on behalf of the debtor was \$ 57,600.00, which was disbursed as follows:

#	NAME	TYPE	\$ ALLOWED	CLAIM AMT	PRINCIPAL PD	INTEREST PD
01	BANK ONE	DIRECT PAY	.00	.00	.00	.00
02	CHRYSLER FINANCIAL CORP	DIRECT PAY	.00	6,982.57	.00	.00
03	CHRYSLER FINANCIAL CORP	DIRECT PAY	.00	5,979.35	.00	.00
04	FIDELITY INVESTMENT	DIRECT PAY	.00	109,488.96	.00	.00
05	ECAST SETTLEMENT CORP	UNSECURED	34.55	11,955.57	4,096.10	.00
06	BANK OF LOUISIANA	UNSECURED	34.55	1,910.00	659.91	.00
07	JULES FONTANA ATTY	NOTICE ONLY	.00	.00	.00	.00
08	CHASE BANKCARD SERVICES	UNSECURED	34.55	.00	.00	.00
09	CITIBANK	UNSECURED	34.55	.00	.00	.00
10	RESURGENT CAPITAL SERVICES	UNSECURED	34.55	21,227.06	7,333.95	.00
11	CITIFINANCIAL INC	UNSECURED	34.55	17,711.35	6,119.27	.00
12	CITIFINANCIAL INVESTMENT	NOTICE ONLY	.00	.00	.00	.00
13	EDWARD F BUKATY III	NOTICE ONLY	.00	.00	.00	.00
14	DILLARD NATIONAL BANK	UNSECURED	34.55	5,033.55	1,739.09	.00
15	DILLARD NATIONAL BANK	UNSECURED	34.55	597.88	206.57	.00
16	DISCOVER FINANCIAL SERVICES	UNSECURED	34.55	22,640.41	7,822.26	.00
17	AOL VISA	UNSECURED	34.55	.00	.00	.00
18	FIRST USA	UNSECURED	34.55	.00	.00	.00
19	JC PENNEY/MONROGRAM	UNSECURED	34.55	.00	.00	.00
20	MAX FLOW CORP	UNSECURED	34.55	5,386.54	1,861.05	.00
21	MAX FLOW CORP	UNSECURED	34.55	30,931.02	10,686.67	.00
22	MAX FLOW CORP	UNSECURED	34.55	29,443.71	10,172.80	.00
23	REGIONS BANK	UNSECURED	34.55	5,158.98	1,782.43	.00
25	DILLARD NATIONAL BANK	UNSECURED	34.55	251.54	86.91	.00
Paid to Trustee: \$ 3,274.29			Disbursed to PRIORITY Creditors: \$ .00			
Paid to Attorney: \$ 1,750.00			Disbursed to SECURED Creditors: \$ .00			
Refunded to Debtor: \$ 8.70			Disbursed to UNSECURED Creditors: \$ 52,567.01			

cc: CLAUDE C LIGHTFOOT JR  
STE 450  
3500 N CAUSEWAY BLVD  
METAIRIE LA 70002

*S. J. Beaulieu Jr.*

S. J. Beaulieu, Jr.  
Chapter 13 Trustee

SC00419

TOTAL P.04



## U.S. Department of Justice

Criminal Division

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Washington, D.C. 20530

April 13, 2004

BY FEDERAL EXPRESS

S. J. Beaulieu, Jr.  
433 Metairie Rd., Suite 307  
Metairie, LA 70005

Dear Mr. Beaulieu:

We are writing with regard to an April 1, 2004, letter from your staff attorney, Michael F. Adoue, to FBI Special Agent DeWayne Horner, which Agent Horner has forwarded to us. We appreciate you sharing your thoughts and concerns.

As we previously discussed, we cannot comment on the existence or nature of an ongoing investigation or share any evidence that may have been gathered in the course of such an investigation. In Mr. Adoue's letter, he identifies several subjects about which it might be possible for you to make inquiries or take other investigative steps, but, as we stated previously, we take no position as to whether you should pursue any investigation in any case before you. It is entirely at your discretion whether you choose to do so. Please feel free to contact us with any additional questions.

Sincerely yours,

Noel L. Hillman  
Chief, Public Integrity Section

By: 

Noah D. Bookbinder  
Daniel A. Petalas  
Trial Attorneys  
Public Integrity Section  
Criminal Division  
(202) 514-1412

cc: Special Agent DeWayne Horner, FBI

NDB:jw

Typed: 04/13/04

Records

Bookbinder (1)

(by NDB)

Section Chron.

Petalas (1)

ACTS# 200000436

SC00420

**U.S. Department of Justice**

Office of Legislative Affairs

Office of the Assistant Attorney General

*Washington, D.C. 20530*

SEP 3 2010

The Honorable Claire McCaskill  
Chairman  
The Honorable Orrin G. Hatch  
Vice Chairman  
Senate Impeachment Trial Committee  
United States Senate  
Washington, DC 20510

Dear Madam Chairman and Mr. Vice Chairman:

This is to advise the Committee about our serious concerns regarding the Motion by Judge G. Thomas Porteous, Jr., for subpoenas to be issued to Department of Justice attorneys in connection with the pending impeachment proceedings. We understand that such a Motion was filed on or about August 29, 2010, and that the Chair may rule on it as soon as September 7, 2010. We respectfully request that the Chair deny the Motion or at least defer action on it at this point.

The Motion seeks subpoenas for two Department of Justice career prosecutors, Daniel A. Petalas and Peter S. Ainsworth, both of whom participated in our investigation of Judge Porteous. That investigation, which concluded in 2007, is fully described in the letter from Deputy Assistant Attorney General John C. Keeney to the Honorable Edith H. Jones, Chief Judge of the United States Court of Appeals for the Fifth Circuit, dated May 18, 2007, which referred this matter for further action by the Judicial Conference for the Fifth Circuit.<sup>1</sup> As you will note, this letter describes the evidence we developed in twenty-two pages of detail, as well as the reasons for the Department's decision to close it without filing charges against Judge Porteous. The document notes our concerns about potential issues relating to statutes of limitation, the government's heavy burden of proof in a criminal trial to a unanimous jury, and other factors that weighed in our decision. The record also reflects our consideration of alternative remedies, including impeachment. Following our referral, the Department provided

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<sup>1</sup> A copy of the letter, which has been provided to Judge Porteous, is enclosed here for your convenience.

The Honorable Claire McCaskill  
The Honorable Orrin G. Hatch  
Page Two

the Fifth Circuit with hundreds of pages of documents relating to the investigation, all of which we understand have been produced or otherwise made available to Judge Porteous.

We do not believe that the Department's reasons for declining to prosecute Judge Porteous are relevant in any way to the pending impeachment proceedings. In criminal proceedings, we face the burden of proving charges beyond a reasonable doubt to a unanimous jury and are subject to specific statute of limitations restricting the charges we can bring. Those limitations do not apply here. Accordingly, the reasons for our decision to refer the matter to the Fifth Circuit, rather than proceeding with a criminal prosecution, should have no bearing on the issues before the Senate. The argument that our declination decision and related referral, which specifically noted the impeachment alternative, somehow supports a defense in the impeachment proceeding seems circuitous. They are completely different actions and the Department's decision not to proceed criminally should not be misinterpreted as pertinent in any respect to the matters before the Senate regarding Judge Porteous.

We fully appreciate and support the Senate's strong interest in assuring the fairness of the impeachment proceedings to all concerned, particularly Judge Porteous. We have provided extensive materials and our efforts to provide additional assistance to the Senate are continuing, including providing information about our decisions regarding Judge Porteous. We have substantial concerns, however about the issuance of subpoenas here because we do not want to chill career Department prosecutors in the conduct of their law enforcement responsibilities. The Department also has significant confidentiality interests in the internal deliberations in which these attorneys participated. In addition, we believe, as a matter of long-standing policy, that career line attorneys should not be the ones required to respond to congressional requests for information about the Department's decisions when the provision of such information is appropriate. We are prepared to work with the Committee to find other satisfactory ways to accommodate your needs for information about our decisions to the extent that they are relevant to these proceedings. Under these circumstances, we respectfully request that you defer the use of compulsory process.

We request the opportunity to confer further before any decision to authorize subpoenas to the Department attorneys, and we are ready to do so at your convenience. Thank you for your consideration of our concerns and your support for our law enforcement efforts. Please do not hesitate to contact me directly if you would like to discuss this matter.

Sincerely,



Ronald Weich  
Assistant Attorney General

Enclosure





## U.S. Department of Justice

## Criminal Division

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*Washington, D.C. 20530*

May 18, 2007

The Honorable Edith H. Jones  
Chief Judge  
United States Court of Appeals for the Fifth Circuit  
515 Rusk Avenue, Room 12505  
Houston, Texas 77002-2655

Re: Complaint of Judicial Misconduct Concerning the Honorable  
G. Thomas Porteous, Jr.

Your Honor:

The United States Department of Justice respectfully submits this complaint referring allegations of judicial misconduct concerning the Honorable G. Thomas Porteous, Jr., United States District Judge for the Eastern District of Louisiana, pursuant to 28 U.S.C. §§ 351-64 and the Rules Governing Complaints of Judicial Misconduct or Disability (amended July 15, 2003).<sup>1</sup>

For the past several years, the Federal Bureau of Investigation ("FBI") and a grand jury empanelled in the Eastern District of Louisiana investigated whether Judge Porteous and other individuals bribed or conspired to bribe a public official in violation of 18 U.S.C. §§ 201 and 371, committed or conspired to commit honest services mail- or wire-fraud in violation of 18 U.S.C. §§ 371, 1341, 1343, and 1346, submitted false statements to federal agencies and banks in violation of 18 U.S.C. §§ 1001 and 1014, and filed false declarations, concealed assets, and acted in criminal contempt of court during his personal bankruptcy action in violation of 18 U.S.C. §§ 152 and 401.

The Department has determined that it will not seek criminal charges against Judge Porteous. Although the investigation developed evidence that might warrant charging Judge Porteous with violations of criminal law relating to judicial corruption, many of those incidents took place in the 1990s and would be precluded by the relevant statutes of limitations. In reaching its decision not to bring other available charges that are not time barred, the Department weighed the government's heavy burden of proof in a criminal trial, and the obligation to carry that burden to a unanimous jury; concerns about the materiality of some of Judge Porteous's provably false statements; the special difficulties of proving mens rea and intent to deceive beyond a reasonable doubt in a case of this nature; and the need to provide consistency in charging decisions concerning bankruptcy and criminal contempt matters. The Department also

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<sup>1</sup> This complaint contains information obtained by the grand jury. The district court has authorized disclosure of matters occurring before the grand jury pursuant to Fed. R. Crim. P. 6(e)(3)(E)(i) solely for use in this complaint and any resulting judicial proceedings.

gave careful consideration -- as it must -- to the availability of alternative remedies for Judge Porteous's history of misconduct while on the bench, including impeachment and judicial sanctions administered pursuant to 28 U.S.C. §§ 351-64.

Despite the Department's decision not to charge Judge Porteous with violations of federal criminal law, the investigation has uncovered evidence of pervasive misconduct committed by Judge Porteous. The Department also is aware that Judge Porteous and his medical examiners have concluded that he is mentally and psychologically unfit to serve as a federal judge, and that his incompetency is permanent. Collectively, the evidence indicates that Judge Porteous may have violated federal and state criminal laws, controlling canons of judicial conduct, rules of professional responsibility, and conducted himself in a manner antithetical to the constitutional standard of good behavior required of all federal judges. Further, it has come to the Department's attention that Judge Porteous is scheduled to return to the federal bench in June 2007, at which time he may seek to preside over matters involving the Department. The Department accordingly refers this evidence to Your Honor for possible disciplinary proceedings and, if warranted, certification of the allegations to Congress for impeachment.

#### BACKGROUND

On October 11, 1994, G. Thomas Porteous, Jr., was confirmed by the United States Senate as a United States District Court Judge for the Eastern District of Louisiana. Before his elevation to the federal bench, he served as a judge on the 24th Judicial District Court of the State of Louisiana ("24th JDC") for ten years, from 1984 to 1994.

The New Orleans Division of the FBI conducted an investigation into allegations of judicial corruption in the 24th JDC. That investigation resulted in the convictions of fourteen defendants, including several 24th JDC judges, the owners of a bail bonding business, and other state court litigants and officials. During the investigation, the FBI was informed that Judge Porteous had in the past accepted, and as a federal judge continued to accept things of value, including payments and trips, from local attorneys, allegedly in exchange for favorable rulings. The FBI also was informed that Judge Porteous maintained an improper relationship with Louis and Lori Marcotte, the owners of a bail bonding business, who allegedly provided Judge Porteous as well as other state judges and employees various things of value in exchange for access and assistance on bond-related matters.

In March 2001, Judge Porteous and his wife, Carmella Porteous, filed for bankruptcy under Chapter 13. Gabriel and Carmella Porteous signed and filed a declaration that their bankruptcy schedules and statement of financial affairs were true to the best of their knowledge, information, and belief. Subsequently, the bankruptcy court confirmed a repayment plan based on the information the Porteouses submitted to the court. The bankruptcy judge issued an order providing for repayment to the creditors over a 36-month period and prohibiting the Porteouses from accruing further debt during the bankruptcy. The repayment plan was satisfied and the bankruptcy discharged in July 2004.

EVIDENCE OF MISCONDUCT1. Evidence that Judge Porteous Violated the Order of the Bankruptcy Court

Judge Porteous and his wife Carmella Porteous filed for bankruptcy on March 28, 2001. The Porteouses' financial records show that they sought protection in bankruptcy in large part because of their substantial gambling activities. For example, between June 1995 and July 2000, while Judge Porteous served on the federal bench, over \$66,000 in gaming charges appear on Judge Porteous's credit card statements. Along with those credit card charges, between January 1996 and May 2000 Judge Porteous wrote checks or made cash withdrawals at casinos for an additional \$27,739.

Judge William Greendyke, sitting by designation on the Bankruptcy Court for the Eastern District of Louisiana, issued an Order confirming the bankruptcy repayment plan on June 28, 2001. Among other things, Judge Greendyke ordered that "[t]he debtor(s) shall not incur additional debt during the term of this Plan except upon written approval of the Trustee." Failure to obtain such approval may cause the claim for such debt to be unallowable and non-dischargeable.<sup>1</sup>

Judge Porteous violated this order on multiple occasions. Among other debts, he obtained gambling markers and loans from casinos during the pendency of the bankruptcy proceeding.<sup>2</sup> Judge Porteous obtained the following short-term debts from casinos in the aggregate amount of \$31,900 in violation of the court's order:

- on August 20 and 21, 2001, Porteous borrowed \$8,000 from Treasure Chest Casino in Kenner, Louisiana;
- on September 28, 2001, Porteous borrowed \$2,000 from Harrah's Casino in New Orleans, Louisiana;
- on October 13, 2001, Porteous borrowed \$1,000 from Treasure Chest Casino in Kenner, Louisiana;
- on October 17 and 18, 2001, Porteous borrowed \$5,900 from Treasure Chest Casino in Kenner, Louisiana;
- on October 31, 2001, Porteous borrowed \$3,000 from Beau Rivage Casino in Biloxi, Mississippi;
- on November 27, 2001, Porteous borrowed \$2,000 from Treasure Chest Casino in Kenner, Louisiana;

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<sup>1</sup> A "marker" is a form of credit extended by a casino that enables a customer to borrow money while authorizing the casino to draw any unpaid balance after a fixed period of time from the customer's bank account. Typically, markers are deposited after a few days, but Judge Porteous obtained an agreement from at least one casino that he would be afforded thirty days to repay his markers before the casino would deposit them.

- on December 11, 2001, Porteous borrowed \$2,000 from Treasure Chest Casino in Kenner, Louisiana;
- on December 20, 2001, Porteous borrowed \$1,000 from Harrah's Casino in New Orleans, Louisiana;
- on February 12, 2002, Porteous borrowed \$1,000 from Grand Casino in Gulfport, Mississippi;
- on April 1, 2002, Porteous borrowed \$2,500 from Treasure Chest Casino in Kenner, Louisiana;
- on May 26, 2002, Porteous borrowed \$1,000 from Grand Casino, Gulfport, Mississippi; and
- on July 4 and 5, 2002, Porteous borrowed \$2,500 from Grand Casino, Gulfport, Mississippi.

In addition, the evidence shows that Judge Porteous violated the order prohibiting new debt on several other occasions. On July 4, 2002, Judge Porteous applied successfully to increase his credit limit at Grand Casino Gulfport from \$2,000 to \$2,500. Judge Porteous and his wife accrued new debt on a credit card in violation of the order, including \$734.31 in new charges between May 16 and June 18, 2001; \$277.74 in new charges between June 15 and July 18, 2001; and \$321.32 between July 16 and August 17, 2001.<sup>3</sup> Further, Judge Porteous and his wife obtained new, low-limited credit cards during the course of the bankruptcy without obtaining trustee approval, also in violation of the order. On several occasions, Judge Porteous signed the checks paying off the debts on credit cards that were obtained in his wife's name.

The evidence indicates that Judge Porteous intended to violate the order of the bankruptcy court. First, Judge Porteous is a federal judge who issues similar orders, and unquestionably expects that they will be obeyed. Claude C. Lightfoot, his bankruptcy attorney, testified that both he and the bankruptcy judge told Judge Porteous that he could not obtain new debt, that the requirement was well known to Judge Porteous, and that it was very clear to Judge Porteous that he would need approval to obtain new debt.<sup>4</sup> During a May 9, 2001 creditors meeting, Judge Porteous was further admonished by the trustee that he could not obtain new debt. The trustee also provided Judge Porteous with a written statement that reiterated the restriction on obtaining debt during bankruptcy, including credit card debt. Finally, Judge Porteous's actions in the bankruptcy show that he knew about the order's prohibition, and violated it willfully: not only

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<sup>3</sup> The Porteouses retained this credit card during the bankruptcy by failing to report on the bankruptcy application that they had paid off the debt on that card immediately before filing, as set forth below.

<sup>4</sup> The district court overseeing this grand jury investigation ruled that the attorney-client and work product privileges did not bar Lightfoot from testifying or producing records about his representation of Judge Porteous, both because the privilege did not apply to much of the requested information and also because the government satisfied its burden of showing that the crime-fraud exception defeated the claim of privilege.

did several of the violations occur soon after the confirmation order was issued, but he complied with the no-debt provision of the order in other instances that he knew were likely to come to the attention of the trustee. Specifically, the Porteouses requested permission from the bankruptcy trustee to refinance their home, which the trustee granted on December 20, 2002, and to obtain two new car leases, which the trustee granted on January 2, 2003. That Judge Porteous knew to request permission for other debts during the pendency of the bankruptcy makes clear that his failure to request permission for gambling and credit card debts was intentional and willful.

## II. Evidence that Judge Porteous Filed False Pleadings and Concealed Assets in Bankruptcy

Judge Porteous included numerous false statements in bankruptcy pleadings signed under penalty of perjury and submitted to the court -- statements that closed avenues of inquiry and undermined the administration of the bankruptcy by, among other things, concealing assets and income that potentially could have been made available to creditors, but were not.

### A. False Initial Petition

The evidence indicates that Judge Porteous intentionally filed his initial bankruptcy petition using a false name to protect himself from public embarrassment. The docket and various documents from the bankruptcy of Gabriel Thomas Porteous, Jr., and Carmella Porteous, case number 01-12363 in the Eastern District of Louisiana, indicate that a petition was filed on March 28, 2001, listing the debtors as "G.T. Ortous" and "C.A. Ortous" and their "street address" as "P.O. Box 1723, Harvey, LA 70059-1723." The social security numbers listed correspond to Gabriel Thomas Porteous, Jr., and Carmella Porteous. The petition was signed by Gabriel and Carmella Porteous in two places, once each directly over the printed name "Ortous." Those signatures were made under penalty of perjury.

Bankruptcy records also indicate that an amended petition was filed in the same case number on April 9, 2001, providing the debtors' names "Gabriel T. Porteous, Jr.," and "Carmella A. Porteous" and the street address "4801 Neyrey Dr., Metairie, LA 70002." United States Postal Service records include a PS Form 1093 Post Office Box assignment for P.O. Box 1723 in Harvey, Louisiana, which indicates that Gabriel T. Porteous, Jr., rented that box on March 20, 2001, just days before filing for bankruptcy.

The Porteouses' bankruptcy attorney testified that he and Judge Porteous specifically devised this scheme to sign under penalty of perjury an initial petition using a fabricated name and newly-acquired post office box address. The attorney testified that their purpose in falsifying the initial filing was to avoid publicity and humiliation by preventing Porteous's name from being listed in the local newspaper among other bankruptcies filed that week.

### B. Concealed Assets and Income

The investigation also obtained evidence that Judge Porteous concealed assets and income during his bankruptcy proceeding. The Chapter 13 Schedules and Plan were signed by Gabriel and Carmella Porteous and Claude Lightfoot and were filed on April 9, 2001. The Porteouses signed a declaration filed with the Schedules indicating that, under penalty of perjury,

the Schedules were true to the best of their knowledge, information, and belief. Judge Porteous also stated under oath in a hearing before the bankruptcy trustee on May 9, 2001, that the materials submitted were true to the best of his knowledge. However, the bankruptcy schedules and other Porteous financial records indicate that the Porteouses concealed from the bankruptcy court several assets and sources of income, including those described below.

1. Concealed Tax Refund – In response to question 17 of Schedule B, filed April 9, 2001, which asks for “other liquidated debts owing debtor including tax refunds,” Judge Porteous stated that there were “None.” For question 20 of Schedule B, which asks for “other contingent and unliquidated claims of every nature, including tax refunds,” Judge Porteous likewise responded, “None.” However, records provided by Bank One for accounts of Gabriel and Carmella Porteous indicated that a \$4,143.72 tax refund was deposited approximately one week later, on April 13, 2001. In an interview, the bankruptcy trustee indicated that the Porteouses did not notify him about their calendar year 2000 tax refund and did not turn the refund over to him even though they were required to do so. Their attorney, Claude Lightfoot, testified that the Porteouses never told him they were expecting a refund for calendar year 2000 when he went over each line of their schedules with them before signing and filing them.

2. Understated Bank Account Balance – In response to question 2 of Schedule B, which asks for “checking, savings, or other financial accounts, . . . or shares in banks, savings and loan, thrift, building and loan, and homestead associations,” the Porteouses listed “Bank One Checking Account No. 002379554” with a current value of \$100. However, the Porteouses’ Bank One statement for that account, covering the period March 23 to April 23, 2001, indicates that the balance in that account on March 28, 2001, the date the bankruptcy petition was filed, was more than \$1,800. The balance on April 9, 2001, the date the schedules were filed, was more than \$3,000. Another bank account, which had a balance of more than \$280 at the time, was not included in the bankruptcy filings at all. Judge Porteous’s bankruptcy attorney testified that the only account Judge Porteous told him about was the account listed in the schedules, and that the \$100 figure for that account came from Judge Porteous. By providing counsel with false and incomplete information, Porteous prevented his lawyer from rendering considered advice on what amounts to include, and by failing to disclose the full amount of assets in his bank account, Judge Porteous obstructed the trustee’s task of accurately providing a full accounting of the Porteouses’ financial condition to the bankruptcy court and interested creditors.

3. Carmella Porteous’s Employment – Schedule I requires debtors to list, among other items, current income, occupation, and name of employer for the individual debtors. On Schedule I, the Porteouses listed the employer and take-home pay for Judge Porteous, but provided no employer name or income for Carmella Porteous. However, the Porteouses’ bank records indicate that Carmella Porteous worked sporadically for several established employers both before and after the bankruptcy petition was filed. For instance, in the year 2000, she earned at least \$864 from Adecco Employment Services and \$327 from New Orleans Metropolitan Convention and Visitors, and in 2001, she earned \$3,109.50 from R&M Glynn, Inc., and \$915 from New Orleans Metropolitan Convention and Visitors. None of this income was indicated on the bankruptcy petition or schedules, nor was it subsequently brought to the attention of the trustee or the court.

### C. Concealed Preferred Creditors

The bankruptcy schedules and other Porteous financial records also indicate that the Porteouses apparently concealed from the bankruptcy trustee and creditors the existence of several additional creditors who were paid in full immediately before the bankruptcy was filed.

Gabriel and Carmella Porteous signed under penalty of perjury their Statement of Financial Affairs on April 9, 2001. Question 3 of the Statement stated, "List all payments on loans, installment purchases of goods or services, and other debts, aggregating more than \$600 to any creditor, made within 90 days immediately preceding the commencement of this case." The Porteouses answered, "Normal installments." That statement was false, as they failed to list full repayments made to Fleet Credit Card Services and Grand Casino Gulfport shortly before they declared bankruptcy. These creditors therefore appear to be secretly preferred creditors, preferences that allowed the Porteouses to retain a credit card and protect their line of credit with a casino during the pendency of their bankruptcy repayment plan.

1. Fleet Credit Card – Credit card records of Carmella Porteous from Fleet Credit Card Services obtained pursuant to a grand jury subpoena indicate that Carmella Porteous held Fleet credit card account # 5447195123210658 prior to the filing of the Porteouses' bankruptcy on March 28, 2001. The records further indicate that the balance on that account, \$1,088.41, was paid in full with a March 23, 2001 check from Judge Porteous's secretary, Rhonda Danos. His secretary testified that she made that payment at Judge Porteous's direction. Accordingly, Fleet Credit Card Services was fully paid off, in contrast to the creditors included in the bankruptcy, and the Porteouses retained the Fleet credit card for their own use, all without any disclosure to the bankruptcy trustee, judge, or creditors. Indeed, the Porteouses subsequently used this credit card in violation of the bankruptcy court's order prohibiting them from accruing new debt.

2. Grand Casino Markers – Records obtained from Grand Casino Gulfport pursuant to a grand jury subpoena indicated that Gabriel Porteous obtained two \$1,000 markers from the casino on February 27, 2001. According to casino and bank records and interviews, Grand Casino Gulfport attempted to deposit the markers, which Judge Porteous had not repaid, in March 2001, but was unsuccessful due to a change in the ownership of Judge Porteous's bank. Casino records further show that Porteous contacted the casino and provided the new bank information before filing his Statement of Financial Affairs. On April 4, 2001, the markers were successfully deposited. Grand Casino Gulfport was therefore fully paid off, in contrast to the creditors included in the bankruptcy, all without any notification to the bankruptcy trustee, judge, or creditors. In addition, as noted above, Judge Porteous subsequently raised his credit limit with Grand Casino Gulfport during the pendency of his bankruptcy.

### D. Undisclosed Gambling Losses

On the Statement of Financial Affairs, Question 8 states, "List all losses from fire, theft other casualty or gambling within one year immediately preceding the commencement of this case or since the commencement of this case." The Porteouses checked the box for "None." However, analyses of casino records indicated that Judge Porteous's gambling losses exceeded \$12,700 during the preceding year, or at least \$5,700 in net losses. According to the trustee, had

he known about the Porteouses' gambling losses he may have scrutinized more carefully the income and expense figures reported by the Porteouses in their filings.

#### E. Impact of False Statements and Concealed Assets in Bankruptcy

Judge Porteous, in the series of false statements set out above, subverted the bankruptcy court's ability to properly administer his bankruptcy. His use of a false name and his concealment of his gambling losses in the year preceding his bankruptcy prevented the public from learning about the nature of his public bankruptcy and prevented the trustee, court, and creditors from learning a relevant aspect of his financial condition. His false statements about expected tax refunds, bank accounts, his wife's income, and the existence of preferred creditors all concealed from the court income or assets that could have been distributed to creditors in the bankruptcy or been used to calculate the Porteouses' obligations in the event their assets were to be liquidated. The Porteouses filed a Chapter 13 bankruptcy, in which payments to creditors are based on prospective income. Carmella Porteous's income would have been directly relevant to the calculation of income available to repay creditors. Moreover, in order to determine a fair recovery for creditors under Chapter 13, courts compare the amount that a debtor would pay under Chapter 13 with the amount they would pay were the debtor's assets liquidated. The creditors must fare at least as well in Chapter 13 as they would if the assets were liquidated under Chapter 7. Accordingly, depending on how they were treated by the trustee and bankruptcy judge, concealed assets such as the Porteouses' expected tax refund, money in bank accounts, and money paid to preferred creditors (which the court could order repaid and distributed among all creditors) could have affected the comparative liquidation value of his estate, the amount of the monthly payments the Porteouses were required to make, or the percentage of debt the Porteouses were ultimately obligated to repay.

Even if the value of the hidden assets would not ultimately have affected the amount recovered by any individual creditors, Judge Porteous's false statements nonetheless undermined the bankruptcy process generally. "Debtors have an absolute duty to report whatever interests they hold in property, even if they believe their assets are worthless or are unavailable to the bankruptcy estate." *In re Yonikus*, 974 F.2d 901, 904 (7th Cir. 1992). This is because allowing debtors "the discretion to not report exempt or worthless property usurps the role of the trustee, creditors, and the court by denying them the opportunity to review the factual and legal basis of debtors' claims." *In re Bailey*, 147 B.R. 157, 163 (Bankr. N.D. Ill. 1992). Judge Porteous's concealment of assets and his filing of a false petition, schedules, and his statement of financial affairs precluded other interested parties from asserting their rights and enjoying a full and fair hearing on any claims they may have made against the estate.<sup>5</sup>

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<sup>5</sup> Despite the evidence recited above, the Department ultimately concluded that it would not seek to charge Judge Porteous with violations of federal criminal law under 18 U.S.C. § 152(1) and (3) (concealed assets and false statements in bankruptcy) and 18 U.S.C. § 401(3) (criminal contempt of court). Several factors informed that decision, including the burdens of proving beyond a reasonable doubt to a unanimous jury the materiality of Judge Porteous's misconduct in the bankruptcy proceeding. The burdens on the government in a criminal prosecution, however, do not apply in judicial misconduct or impeachment proceedings. An



### III. Evidence that Judge Porteous Submitted Additional False and Misleading Statements

The investigation obtained evidence that numerous signed documents filed prior to or contemporaneously with the initiation of bankruptcy on which Judge Porteous had a duty to be truthful -- including government financial disclosure reports, a casino credit application, and a bank loan renewal application -- also contained false or misleading information.

Porteous's financial disclosure report for calendar year 2000, filed with the Administrative Office in May 2001 just over a month after he filed for bankruptcy, failed to list numerous credit accounts he was obligated to disclose, including most of those listed on his bankruptcy documents. Further, on that disclosure report Judge Porteous indicated liabilities of \$15,000 or less on each of two credit cards, while Schedule F to his bankruptcy filings from the same time period reflects that Judge Porteous in fact owed approximately \$196,000 in unsecured debt, most of it credit card debt. Judge Porteous also failed to disclose on his annual financial disclosure forms the travel, cash, and gifts he received while a federal judge from attorneys and others with matters before him, as discussed further below. In addition, Judge Porteous reported "0" indebtedness on an April 30, 2001, credit application filed with Harrah's casino just weeks after he noted in his petition to the bankruptcy court that he had incurred \$196,000 in unsecured debt.

The investigation also uncovered evidence that Judge Porteous intended to mislead Region's Bank about his financial condition in order to ensure that a \$5,000 single-payment loan scheduled to become due shortly before the bankruptcy would be extended and, thus, discharged among other unsecured debts in the bankruptcy. In response to a grand jury subpoena, Claude Lightfoot, the Porteouses' bankruptcy attorney, produced a letter from him to the Porteouses dated December 21, 2000, which discussed additional letters he had sent to all but one of the unsecured creditors that later were included in the bankruptcy. Lightfoot stated, "I enclose a copy of the letters and one copy of the attachments I included with each that I have sent to all of the unsecured creditors, with the exception of Regions Bank which we wanted to exclude, proposing the workout of the debts to each . . . ." (emphasis added). These "workout" letters proposed a 21% payment of the debts the Porteouses owed to each of 13 unsecured creditors "[i]n an effort to provide all of my clients' unsecured creditors with immediate payment now and to avoid the necessity of a Chapter 7 bankruptcy filing." (emphasis added). Region's Bank, to whom the Porteouses owed \$5,000 on an unsecured "single payment" loan scheduled to come due January 13, 2001, was not sent a workout letter, nor was the \$5,000 Regions loan amount included in the schedule of debts provided in the workout letters to other creditors. Another document Lightfoot produced was a list of the Porteouses' creditors and debts that had been prepared by Judge Porteous and his wife, and which Lightfoot used, along with other worksheets, during his efforts to reduce the Porteouses' debts short of bankruptcy as well as in preparing the bankruptcy petition and schedules. That list includes an entry in what has been identified as Judge Porteous's handwriting that states, "Regions Bank \$5000 unsecured loan due 1/13/01."

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impeachable offense is any misconduct that damages the State and the operations of governmental institutions; it is not limited to criminal misconduct.

On January 16, 2001 - shortly after the workout letters were sent to the unsecured creditors -- Judge Porteous signed an application with Region's Bank to renew his loan and extend the date of repayment on the loan six months. On the application Judge Porteous certified that he was not "in the process of filing bankruptcy" and signed under the acknowledgment that there had been "no material adverse change" in his financial condition "as disclosed in my most recent financial statement to lender." (The relevant loan applications with Region's Bank submitted in January and July 2000 included financial statements, but neither of those statements appears to have been completed.) The loan renewal was approved, and the repayment date was extended to July 17, 2001. The Porteouses then filed their initial voluntary petition for bankruptcy approximately two months later, on March 28, 2001, and the loan from Region's Bank was discharged in the bankruptcy.

The December 21, 2000, letter from their attorney to the Porteouses establishes that Judge Porteous's decision not to disclose his actual financial condition and impending bankruptcy to Region's Bank in the loan renewal application was intentional. Indeed, the letter states that the Porteouses and their attorney decided not to send the workout letter to Region's Bank in particular. As a result, Judge Porteous was able to obtain an extension under the false pretense that his financial condition had not materially worsened and that he was not on the brink of bankruptcy, and was able to include the Region's Bank loan in the bankruptcy even though it was originally set to mature before he filed.

#### IV. Evidence that Judge Porteous Solicited and Accepted Things of Value from Attorneys and Litigants with Matters Before Him

Among the attorneys identified by FBI sources as the group most closely linked to the corruption allegations surrounding Judge Porteous were Donald Gardner, Robert Creely, Leonard Levenson, and Warren Forstall. Each of those attorneys was interviewed or compelled to testify before the grand jury about their financial dealings with the Judge. The evidence obtained from those witnesses shows that Judge Porteous accepted cash, expensive meals, travel, and other benefits from them, gifts that the Judge failed to disclose to the Administrative Office on his annual financial disclosure reports or to litigants and opposing counsel in cases in which those attorneys were engaged. The Department also has obtained evidence that Judge Porteous received unreimbursed travel and sport hunting trips from litigants with matters before him in federal court, also without disclosing his apparent conflicts to interested parties and counsel.

##### A. Cash Payments from Attorneys

Robert Creely and Jacob Amato, who represented clients with matters before Judge Porteous in state and federal court, testified that Judge Porteous solicited and accepted cash payments from them while he was a state and federal judge. According to their testimony, none of the payments occurred after 1999.

Robert Creely is a lawyer in New Orleans, Louisiana. He met Judge Porteous in high school, and practiced at the same firm as Judge Porteous for a year after law school. Creely then left the firm with another local attorney, Jacob Amato. Creely and Amato practiced together in

the law firm of Creely & Amato for 29 years. Creely describes himself as a very close personal friend of Judge Porteous, as does Amato.

Creely testified that, beginning in the late 1980s and early 1990s, while Judge Porteous was a state court judge, he began to solicit cash payments from Creely. Creely and Amato had matters before Judge Porteous in state court at that time. Creely testified that he and Amato would each take draws for half the amount from their joint law firm account. Creely would give that money to Judge Porteous in cash. Creely indicated that Judge Porteous would always ask for the money to pay urgent, unforeseen expenses related to his family. However, Creely stated that Judge Porteous drank and gambled excessively, and Creely was concerned he was paying for the Judge's extravagant lifestyle. Creely testified that, as a result, he eventually told Judge Porteous he could not continue to give him money.

After Creely decided to cut off further payments to Judge Porteous, the Judge began to designate Creely as the curator on executory interests in mortgaged property in actions over which he presided as a state court judge. Creely testified that he received approximately \$175 from the state court system for each curatorship, and that those cases required very little time or effort on his part. In return, Judge Porteous asked Creely for the money he was paid by the court. Creely testified that he paid Judge Porteous in cash the amount he received, minus his minimal costs, which usually involved simply sending a letter and posting public notice of the pending executory actions. Although PACER records indicate Judge Porteous appointed Creely as the representative for an absent party in at least one forfeiture action in federal court -- that is, United States v. Ratcliff, Civ. No. 95-00224 (filed Jan. 19, 1995) -- Creely testified that the kick-back scheme he described came to an end when Judge Porteous moved from state to federal court in 1994. Jacob Amato also testified about the curatorships and stated that he was aware that Judge Porteous asked Creely for money and explicitly tied those payments to the many cases in which the Judge appointed Creely as a curator.

Creely testified that, in May 1999, Judge Porteous once more asked his law partner, Jacob Amato, for a payment of \$2,000, this time to help defray the cost of a wedding for one of his children. This request was made while Amato was counsel on the Liljeberg matter, a multi-million dollar civil action pending before Judge Porteous in federal court, described further below. Jacob Amato also testified about that request for money from Judge Porteous. Amato gave Porteous the money he asked for in cash, again splitting the payment with Creely through personal draw-downs from their law firm account. Creely testified that Judge Porteous has not solicited, and he has not given him, any additional cash since the May 1999 payment of \$2,000. Creely testified that Judge Porteous instructed him to give the cash to his secretary, Rhonda Danos, who would pick it up from his office. Creely says he put the money in a sealed envelope and gave it to Danos. Danos testified that she does not recall receiving an envelope with cash in it, although she stated that she did pick up items from time to time for the Judge from Creely's office.

Jacob Amato corroborated Creely's claims that they made cash payments to Judge Porteous both while he was a state and a federal judge. Between them, Creely and Amato represented parties in four actions over which Judge Porteous presided on the federal bench

according to the PACER electronic court records system.<sup>6</sup> Creely testified that in total they may have given Judge Porteous as much as \$10,000 over time.

Donald Gardner is also an attorney in New Orleans, Louisiana and a close personal friend of Judge Porteous. Although Gardner testified he does not gamble often, he stated that on occasions when he was at casinos with Judge Porteous, the Judge would ask for money to gamble, and he would give it to him. Gardner testified Judge Porteous would request amounts in the range of \$100 to \$200. He also testified that he provided Judge Porteous approximately \$200 to purchase a gift for his wife. Gardner also paid \$300 to a contractor on behalf of Judge Porteous. Gardner testified that his payments to or on behalf of Judge Porteous occurred prior to him taking the federal bench. According to Gardner, he estimated that over the course of their friendship he did not give Judge Porteous more than \$3,000 in total. Although the FBI developed sources who believed that Gardner regularly paid Judge Porteous, the investigation was ultimately unable to disprove his testimony about the extent of his cash payments to Judge Porteous.

In addition to cash payments to Judge Porteous, several attorneys testified that they gave money to his secretary, Rhonda Danos, to help support Judge Porteous's son during his externship in Washington, D.C., while Judge Porteous was a federal judge. Leonard Levenson is another local attorney who has been friends with Judge Porteous since the early 1980s. Levenson testified that, although he never gave cash directly to Judge Porteous, he may have contributed a few hundred dollars to Rhonda Danos to be used for Judge Porteous's son's externship. Don Gardner also testified that he gave a couple hundred dollars for the externship.<sup>7</sup>

**B. Travel, Meals, and Hunting and Fishing Trips from Lawyers and Litigants**

The investigation of the FBI into alleged judicial corruption also led to the discovery of evidence that, on a regular basis, Judge Porteous accepted gifts of travel, expensive meals, drinks, and hunting and fishing trips from attorneys and businesses with matters before him both in state and federal court, and that Judge Porteous failed to disclose his receipt of those benefits to interested counsel and litigants and, for all but two hunting trips, in his financial disclosure reports to the Administrative Office.

Several attorneys who were compelled to testify admitted that they paid for travel for Judge Porteous. In May 1999, Judge Porteous and several others traveled to Las Vegas, Nevada for his son's bachelor party. Credit card records and Caesar's Hotel records indicate that Robert

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<sup>6</sup> See In re Liljeberg Enters. Inc., Civ. No. 93-01794 (filed June 01, 1993); United States v. Ratchiff, Civ. No. 95-00224 (filed Jan. 19, 1995); Buck v. Candy Fleet Corp., Civ. No. 97-01593 (filed May 16, 1997); and Union Planters Bank, N.A. v. Gavel, Civ. No. 02-01224 (filed Apr. 24, 2002).

<sup>7</sup> Gardner also testified that he, like Creely, was designated by Judge Porteous as a curator in numerous state cases then pending before the Judge. He claimed, however, that the Judge never asked for money in connection with those appointments.

Creely paid \$421.90 with his credit card for Porteous's room from May 20 to May 23, 1999. Judge Porteous's credit card records indicate that he took out more than \$5,000 on his credit cards at Caesar's Hotel during the trip. Caesar's Hotel records estimate that Judge Porteous lost \$1,200 gambling over the course of his stay. Judge Porteous's bank records indicate that he deposited \$5,000 into his money market account days after he returned from the trip. The source of that money is unknown. Don Gardner, the New Orleans attorney representing the opposing party in the Liljeberg cases that were then pending before Judge Porteous, also attended the May 1999 Las Vegas bachelor party trip.

In grand jury testimony and an interview with the FBI, Robert Creely admitted that he attended the bachelor party trip, but did not recall paying for Judge Porteous's room. He said that he and two other non lawyers present on the trip also split the bill for an expensive steak dinner for many of the people in attendance, including Judge Porteous. He claimed that he did not give Judge Porteous any money during or immediately following that trip.

Robert Creely also testified that he has taken Judge Porteous on many fishing trips over the years, including while Judge Porteous was a federal judge, and on two or perhaps three hunting trips while Porteous was on the state bench. Creely valued the hunting trips at the time at around \$1,500 per person plus airfare, all of which he covered on Judge Porteous's behalf. Judge Porteous never covered any of the costs related to the hunting or fishing trips.

Warren Forstall, Jr. is a lawyer who practices in New Orleans, Louisiana. He and Judge Porteous have been friends for about 20 years. Forstall testified that in September 1999, at Judge Porteous's invitation, Forstall purchased tickets for both of them to San Francisco to attend an attorney conference together. They later cancelled the trip, and Forstall did not know what became of the ticket he purchased for Judge Porteous. Credit card and travel agency records for Forstall show that he paid \$238 with his credit card for the airline tickets for Judge Porteous to San Francisco on September 18, 1999, with a return flight from Reno-Tahoe to New Orleans on September 22, 1999, along with an accompanying ticket for himself. Travel records indicate that Judge Porteous traded his California plane ticket for a ticket to Las Vegas in October 1999. Judge Porteous failed to disclose his acceptance of an airline ticket from Forstall on his financial disclosure forms or in any litigation in which Forstall had an interest.<sup>8</sup>

In an interview with the FBI, Leonard Levenson stated that he has paid for hunting trips with Judge Porteous both while the Judge was on the state and federal bench. In October 1999, Levenson and his wife accompanied Judge Porteous to Las Vegas, Nevada. Porteous obtained his airfare for that trip by trading in the unused ticket to San Francisco that he previously had obtained from Warren Forstall. Judge Porteous's secretary, Rhonda Danos, paid for the

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<sup>8</sup> The Court's PACER records indicate that Forstall's firm represented parties in at least six federal actions before Judge Porteous. See Everage v. Fisher, Civ. No. 98-00451 (filed Feb. 11, 1998); McAfee v. Ayers, Civ. No. 98-01415 (filed May 12, 1998); Ford v. United States Postal Serv., Civ. No. 98-02170 (filed July 24, 1998); Wingate v. Brock, Civ. No. 98-03290 (filed Nov. 6, 1998); Coleman v. United States Postal Serv., Civ. No. 99-02017 (filed June 30, 1999); and Minnifield v. Drug Trans. Inc., Civ. No. 02-02516 (filed Aug. 13, 2002).

Levenson's airfare, and was reimbursed by them in November 1999. Levenson has been counsel in at least eleven matters over which Porteous presided in federal court.<sup>9</sup> It does not appear that Judge Porteous provided notice to any party of his acceptance of gifts and benefits from Levenson.

According to evidence obtained from attorneys who were interviewed or testified before the grand jury, Judge Porteous also made it his regular practice to receive gifts of meals and drinks at expensive restaurants from lawyers with matters before him while he was a judge in both state and federal court. Robert Creely, Jacob Amato, Leonard Levenson, Donald Gardner, and Warren Forstall all admitted that they frequently bought meals for Judge Porteous that he did not reimburse. Creely testified that Judge Porteous always expected that the lawyers would pick up the tab, and that the Judge would never offer to pay. Ronald Bodenheimer, a former 24th JDC judge who agreed to be interviewed and testify after pleading guilty to honest services fraud in connection with the investigation of judicial corruption in the 24th JDC, stated that when he was elected to the state bench, Judge Porteous told him that since he was a judge he would never again need to pay for his own lunch. Each of the attorneys who routinely bought meals for Judge Porteous had matters before him both in state and federal court. Judge Porteous apparently never disclosed to any litigant or counsel his receipt of benefits from these lawyers, nor did he disclose any meals valued over \$100 in any financial disclosure report filed with the Administrative Office.<sup>10</sup>

The FBI and other investigative agencies also have obtained evidence that, on at least three occasions, Judge Porteous accepted free travel and hunting trips from the Rowan Company and Diamond Offshore. Rowan and Diamond are each frequently named as defendants in maritime actions brought in the Eastern District of Louisiana and, on many occasions, in actions assigned to Judge Porteous. The hunting trips included free air transportation by private plane from New Orleans, Louisiana to Falfurrias, Texas, and sport hunting on property owned or

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<sup>9</sup> See In re. Liljeberg Enters. Inc., Civ. No. 93-01794 (filed June 01, 1993); In re. Owen McManus, Civ. No. 95-01615 (filed May 23, 1995); Alliance General Ins. Co. v. Louisiana Sheriff's Auto. Risk Prog., Civ. No. 96-00961 (filed Mar. 15, 1996); First Nat'l Bank v. Evans, Civ. No. 96-01006 (filed Mar. 20, 1996); Joseph v. Sears Roebuck & Co., Civ. No. 97-00192 (filed Jan. 21, 1997); Siddiqui Group Enters., Inc. v. Shell Oil Co., Civ. No. 98-00606 (filed Feb. 26, 1998); Liberty Mutual Fire Ins. v. Ravannack, Civ. No. 00-01209 (filed Apr. 19, 2000); Holmes v. Consolidated Cos., Inc., Civ. No. 00-01447 (filed May 17, 2000); Lochin v. Hardin, Civ. No. 02-00257 (filed Jan. 30, 2002); Salatich v. America Online Inc., Civ. No. 03-02943 (filed Oct. 21, 2003); and Morales v. Tripp, Civ. No. 04-02483 (filed Aug. 31, 2004).

<sup>10</sup> For example, although it is difficult to reconstruct the record with certainty, Amato's financial records and testimony indicate that he may have spent at least \$1,500 in 1999 and \$2,250 in 2000 for dining and beverage expenses at restaurants at which he entertained Judge Porteous. Judge Porteous was required to report to the Administrative Office gifts of food and drink valued at more than \$100 on his annual financial disclosure reports. However, Judge Porteous has never reported the receipt of any gift from Amato or any other attorney with matters before him.

controlled by Rowan near the Mariposa Ranch in Falfurrias. The government has also obtained evidence that Judge Porteous traveled from the Falfurrias camp by private plane to a similar hunting camp near San Antonio, Texas owned or controlled by Diamond. Further evidence indicates that, on at least one of the trips paid for by Rowan, Judge Porteous was accompanied on the trip by litigation counsel for Rowan.<sup>11</sup>

Judge Porteous disclosed two of these hunting trips in financial disclosure reports filed with the Administrative Office. On his report for calendar year 2004, filed May 12, 2005, in response to Part V, "Gifts," Judge Porteous reported that he received a hunting trip from Rowan Company, for which he reported a fair market value of \$1,000. On his report for calendar year 2005, filed July 24, 2006, in response to Part V, "Gifts," Judge Porteous reported that he received a hunting trip from Diamond Offshore, which he also valued at \$1,000. Judge Porteous has yet to file his financial disclosure report for calendar year 2006. Judge Porteous's reports appear to understate the fair market value of the hunting trips. Evidence indicates that the cost to operate the private plane used to transport Judge Porteous to Falfurrias, Texas itself was approximately \$1,000 an hour. According to commercial sports hunting locations in the same area, the fee for merely observing a hunt is approximately \$200 a day in addition to the cost of the full hunting package for the other hunt participants, while the fee to participate in a Whitetail Buck hunt, which evidence shows was the subject of at least one of the hunting trips, would cost approximately \$3,000 to \$3,500 per participant. Together, the evidence suggests the total fair market value for each hunting trip would have been in excess of the \$1,000 reported by Judge Porteous.

In addition to apparently understating the fair market value of his trips on financial disclosure reports submitted to the Administrative Office, Judge Porteous apparently failed to disclose his receipt of the trips to counsel and parties adverse to Rowan and Diamond in the actions over which he presided. The Court's PACER electronic records system indicates that, since the late 1980s, the Rowan Companies, Inc. and its related companies have been parties in more than a hundred cases filed in the Eastern District of Louisiana. Judge Porteous has presided over at least six such actions.<sup>12</sup> Of those cases, Hanna was an open matter during all of 2004, and therefore was pending when Judge Porteous received a hunting trip from Rowan. About one week after returning from his January 2006 trip with Rowan, he was assigned to preside over the Thomas matter. Despite his obligation to do so, Judge Porteous apparently failed to disclose the benefits he received from Rowan to counsel and the opposing parties in each of those cases.

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<sup>11</sup> There is evidence that one other federal district judge attended at least one of the hunting trips Rowan sponsored.

<sup>12</sup> See Lucas v. Tetra Technologies, Civ. No. 96-03501 (filed Oct. 28, 1996); Grubb v. Rowan Companies, Inc., Civ. No. 00-01075 (filed Apr. 10, 2000); Hoffman v. Rowan Companies, Inc., Civ. No. 01-01285 (filed Apr. 27, 2001); Hanna v. Rowan Company, Inc., Civ. No. 03-03285 (filed Nov. 21, 2003); Thomas v. Rowan Companies, Inc., Civ. No. 06-00166 (filed Jan. 13, 2006); and Cooley v. Crescent Drilling & Production, Inc., Civ. No. 06-01427 (filed Mar. 20, 2006).

Likewise, Diamond and its related companies were frequent litigants in the Eastern District of Louisiana, also parties in more than a hundred actions filed since the early 1990s. According to the PACER system, Judge Porteous presided over seven matters in which Diamond was a party.<sup>13</sup> Of those seven, Johnson was pending for part of, and Jones during all of 2005, the year in which Diamond provided Judge Porteous one of the trips according to Judge Porteous's financial disclosure report. The docket in each case does not reflect that Judge Porteous provided notice to the parties or counsel of the trip he received from Diamond.

### C. Effect of Judge Porteous's Misconduct on the Administration of Justice

Judge Porteous's apparent misconduct has had a derogatory effect on the administration of justice in the Eastern District of Louisiana. That impact can be illustrated by the effect his conflicts had specifically on the litigation surrounding the Chapter 11 bankruptcy filing of Liljeberg Enterprises, Inc., and the cloud of suspicion those undisclosed conflicts raised about the validity of Judge Porteous's rulings in that matter. See In re Liljeberg Enterprises, Inc., Civ. Nos. 93-1794, 93-4249, 95-2922, and 94-3993. The bankruptcy action was commenced in 1993, and the matter was transferred and consolidated with related cases before Judge Porteous on January 16, 1996. On September 19, 1996, after Judge Porteous's assignment to the litigation and just weeks before the complex matter was scheduled to be tried to the bench, Liljeberg Enterprises moved to substitute Jacob Amato and Leonard Levenson as counsel of record. Judge Porteous signed the order granting the substitution on September 23, 1996. Amato handled the representation of Liljeberg on behalf of the Creely & Amato law firm. Levenson testified that he was told when he was hired by Liljeberg that he was being retained for strategy and assistance during the trial of the matter. However, based on recent public statements made by his client, Levenson now believes that his apparent close relationship with Judge Porteous influenced his client to hire him. Jacob Amato testified that he also believed his connection to Judge Porteous played a role in his client's decision to engage him.

One of several parties adverse to Liljeberg in these actions was LifeMark Hospitals, Inc. After Amato and Levenson were retained by Liljeberg, Lifemark in turn sought to associate a long-time friend of Porteous, Donald Gardner.

Gardner testified that he did not have experience handling federal litigation matters, and that Lifemark had competent local counsel. Gardner stated that the reason he was asked to associate himself on the case was his known relationship with Judge Porteous. LifeMark's counsel, Joseph Mole, testified that he hired Gardner because his client believed it was necessary to "level the playing field" following the retention by Liljeberg of Amato and Levenson – whose close connections to Judge Porteous were also well known among local attorneys. Indeed, prior

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<sup>13</sup> See Pierce v. Diamond Offshore, Civ. No. 98-01661 (filed June 4, 1998); Gonzalez v. Diamond Offshore, Civ. No. 99-00815 (filed Mar. 11, 1999); Sylve v. Oceanering Int'l, Inc., Civ. No. 99-00841 (filed Mar. 15, 1999); Dillon v. Diamond Offshore, Civ. No. 99-02026 (filed June 30, 1999); Farrar v. Diamond Offshore Co., Civ. No. 03-00782 (filed Mar. 19, 2003); Johnson v. Diamond Offshore, Civ. No. 03-02505 (filed Sept. 4, 2003); and Jones v. Diamond Offshore, Civ. No. 04-00922 (filed Mar. 31, 2004).



to hiring Gardner, counsel for LifeMark filed a motion seeking Judge Porteous's recusal because of the appearance of partiality created by the close personal relationship among Porteous, Amato, Creely, and Levenson. LifeMark's counsel testified that he was not aware that Porteous had received cash payments from Amato or his partner Creely, and trips and other benefits from Amato, Creely, and Levenson. He testified that, had he known about those dealings, he would certainly have included that information in his motion to recuse. Judge Porteous denied the motion. In his opinion, Judge Porteous failed to disclose his solicitation and acceptance of cash, travel, and other things of value from Amato, Creely, and Levenson. Counsel for LifeMark filed a mandamus action with the Fifth Circuit, but the Circuit denied LifeMark's requested relief as well -- also without being informed of Judge Porteous's financial dealings with Liljeberg's counsel. Amato testified that his and his partner's gifts of cash and other benefits to Judge Porteous were never disclosed in the litigation, and admitted that they "probably" would have been a basis for recusal. As noted, three years later, while Liljeberg was still pending before him, Judge Porteous again solicited and received \$2,000 in cash from Creely and Amato, which Porteous also failed to disclose to the counsel or litigants in the Liljeberg action, as well as the Administrative Office.

The written fee agreement between Gardner and LifeMark provided that Gardner would be paid a \$100,000 flat fee for associating himself on the case. The agreement included a provision that, if the case was transferred to another judge, Gardner's engagement would end, but he would be paid an additional \$100,000 severance. The fee agreement also contained a sliding-scale of additional fees contingent on various measures of LifeMark's success at trial. According to LifeMark's lead counsel, Joseph Mole, he included that contingent fee component to create an incentive for Gardner to deal honestly with LifeMark and not collude with Amato and Levenson. Mole saw Gardner as part of a circle of friends surrounding Judge Porteous, a circle that included opposing counsel Amato and Levenson. When asked whether Gardner was expected to give any part of his fee to Judge Porteous, both Gardner and Mole testified that he was not. Both also testified that Gardner informed LifeMark up front that he would not be able to influence Judge Porteous to do anything unethical or improper.

Mole testified that Gardner was retained solely because of his close relationship with Judge Porteous, and that his only active role in the case was to attend the bench trial. Gardner testified that he offered advice on how he thought Judge Porteous might react to LifeMark's evidence and strategies, but that counsel for LifeMark disregarded most of that advice. When questioned about the perceived need to pay \$100,000 -- and potentially many hundreds of thousands more -- to an attorney who had no relevant federal experience but who was a friend of the Judge so that he would file an appearance and observe the bench trial, Mole testified that he thought his client was a victim of a broken system.

The non-jury trial before Judge Porteous commenced June 16, 1997 and continued with breaks over several weeks until July 23, 1997. Following the bench trial, Judge Porteous failed to rule for nearly three years. During the time that Judge Porteous's judgment was pending, the evidence reflects, as recounted above, that Judge Porteous asked for and received cash payments

from Creely and Amato, and was the beneficiary of numerous meals, trips, and other gifts from Creely, Amato, Levenson, and Gardner.<sup>14</sup>

On April 26, 2000, Judge Porteous ruled in favor of Amato and Levenson's client, Liljeberg Enterprises, Inc., on most of the important contested issues.<sup>15</sup> Porteous's ruling in favor of Liljeberg was partially reversed by the Fifth Circuit in an unusually critical opinion. Regarding Porteous's finding that LifeMark had breached a fiduciary duty it owed to Liljeberg by, among other things, failing to reinscribe a collateral mortgage and mitigate harms caused by not doing so, the Circuit excoriated Judge Porteous:

... The extraordinary duty the district court imposed upon LifeMark ... is inexplicable. ...

... The right of LifeMark to unilaterally release any part of the property from the mortgage is wholly at odds with the district court's discovery of a "duty" to reinscribe the collateral mortgage. ...

... [Judge Porteous's theory that LifeMark consequently owed a duty to mitigate] is a mere chimera, existing nowhere in Louisiana law. It was apparently constructed out of whole cloth.

*In re Liljeberg Enters., Inc.*, 304 F.3d 410, 428-29 (5th Cir. 2002). Similarly, in finding that Judge Porteous clearly erred in his ruling that the judicial sale of the hospital must be overturned in favor of Amato and Levenson's client, Liljeberg, the Court censured the unsupported conclusions drawn by the Judge:

... the district court's findings of a "conspiracy" to wrest control of the hospital and medical office building from St. Jude and Liljeberg Enterprises border on the absurd. ...

The district court's "conspiracy theory" conclusion is based, in part, on the view that Liljeberg Enterprises's or St. Jude's losses were caused by Lifemark. ...

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<sup>14</sup> On May 28, 1999, Judge Porteous granted summary judgment in favor of Levenson's client in *Alliance Gen. Ins. Co. v. Louisiana Sheriff's Auto. Risk Prog.*, Civ. No. 96-00961.

<sup>15</sup> According to American Express credit card records, Amato paid \$130 at Commander's Palace -- a fine dining restaurant in New Orleans -- on April 25, 2000, the day on which Judge Porteous signed his long-pending judgment in favor of Amato's client. The judgement was filed on the docket on April 26, 2000. Amato has informed the government that Rhonda Danos, Porteous's secretary, was present with him at Commander's Palace on April 25, 2000, and that he paid that bill. Danos testified that the pending judgment was not discussed during the April 25, 2000 rendezvous at Commander's Palace, that she never received any cash or bribe from Amato, and that the timing of her meeting with Amato at Commander's Palace on the day the judgment was signed was a coincidence.

These findings turn on the remarkable but largely implicit conclusion . . . that, under Louisiana law, a second mortgagee . . . cannot initiate foreclosure proceedings. The district court and Liljeberg Enterprises offer no statutory or case law support for this proposition, for the simple reason that this is not the law.

Id. at 431.

V. Evidence that Judge Porteous Accepted Things of Value from Bail Bonds Unlimited and Louis and Lori Marcotte in Exchange for Access and Assistance

Louis and Lori Marcotte operated Bail Bonds Unlimited, a bail bonds company with business before the 24th JDC. As a result of the FBI investigation into corruption in the 24th JDC, both Louis and Lori Marcotte pleaded guilty to bribing Louisiana state judges in addition to other offenses. In interviews following their guilty pleas, the Marcottes said they paid for expensive meals, trips, and other benefits for Judge Porteous in exchange for favorable treatment when he was a state judge in the early 1990's, and that they continued to pay for meals while he was a federal judge. The Marcottes estimated the cost of weekly Friday lunches they provided for Judge Porteous and his staff and other invitees at about \$500 each. They also stated that they paid for innumerable additional meals and drinks at expensive restaurants that cost hundreds of dollars each. In addition, the Marcottes said they paid for numerous car repairs for Judge Porteous and his family, paid for a fence to be built for him, gave parking privileges to Porteous's son at their office near the courthouse, and provided business to his son's legal courier service.

Other witnesses confirm that Louis Marcotte did numerous favors for and gave many gifts to Judge Porteous while he was a state court judge. Former Marcotte employees say that Marcotte paid for car repairs for Judge Porteous and a fence for Judge Porteous' house. Other witnesses report that Marcotte paid for many meals for Judge Porteous and at least one trip to Las Vegas, Nevada for Judge Porteous. Additional sources report, and the FBI in one instance observed, that Louis Marcotte continued to take Judge Porteous out for meals when he was a federal judge.

In 1992, the Marcottes invited Judge Porteous to Las Vegas with them, but he was unable to attend. Several months later, around August 1992, Rhonda Danos called the Marcottes to inform them that Judge Porteous "was ready to go" to Las Vegas with them. The Marcottes and two local attorneys paid to take Judge Porteous and another state judge to Las Vegas. Danos booked the trip on her credit card and then sought reimbursement from Louis Marcotte. The Marcottes stated that the arrangement was designed to disguise the fact that they and other lawyers were paying for the trip. They also stated that they invited the other attorneys and judge to provide cover for Judge Porteous.

In July 1999, the Professional Bail Agents of America paid \$206.80 for lodging for Judge Porteous at their conference at the Beau Rivage in Biloxi, Mississippi. Judge Porteous spoke at the conference. Judge Porteous did not report this payment on his financial disclosure form (there is no minimum value for required reporting of travel reimbursements). The charge for Porteous's lodging was paid by the PBAA out of its "master account." In turn, the Marcottes

made a \$7,000 contribution to cover expenses on that master account. The Marcottes also provided the PBAA with a list of people whose charges should be credited against the Marcotte's credit card. That list included Porteous's secretary, Rhonda Danos.

The Marcottes asserted that they also paid for Porteous's secretary to go to Las Vegas, Nevada for many years with them when they were attending annual bail bonding conventions there. This began in 1992 and continued through the first few years Judge Porteous was a federal judge. The Marcottes have provided the FBI with pictures that show the Judge's secretary in their company in Las Vegas. They claimed that they covered all of Danos's costs during the trips. For several years, the Marcottes also provided Danos and Judge Porteous with five to ten tickets each year to an annual police fund-raising party, valued at \$100 per ticket. The expenses borne by the Marcottes on behalf of the Judge's secretary tend to corroborate their claim that they provided gifts to Judge Porteous in exchange for access. The Marcottes explained that Danos was the gatekeeper for access to Judge Porteous, and that it was therefore essential to their purpose that they kept Danos happy by plying her with gifts as well.

According to the Marcottes, in exchange for their generosity with Judge Porteous and Danos, while Judge Porteous was a state court judge he gave the Marcottes immediate access to him on bonding whenever they needed him. The Marcottes say he granted most of their requests. Louis Marcotte told the FBI that Judge Porteous was more likely to grant a problematic request after a lunch or a car repair. Judge Porteous also made introductions for the Marcottes to other state judges and lent his support by vouching to other judges that Louis Marcotte was a good person to deal with on bond issues. He also spoke to other state judges about the benefits to the court system of split bonds, a practice that was extremely beneficial to the business of Bail Bonds Unlimited. Following his own agreement to plead guilty to honest services fraud and to cooperate with the government, former 24th JDC judge Ronald Bodenheimer corroborated much of what the Marcottes told the FBI concerning the assistance Judge Porteous provided around the courthouse for their business interests in the 24th JDC.

In addition to making himself accessible and assisting the Marcottes on bonding matters, at Louis Marcotte's request Judge Porteous expunged the felony convictions of two Marcotte employees shortly before Judge Porteous left the state bench in 1994. This permitted the employees to work for the Marcottes in the bail bonding business, which otherwise was prohibited under Louisiana law. It appears that Judge Porteous decision to expunge the convictions was contrary to law. Nonetheless, Porteous claimed in an interview with the New Orleans Metropolitan Crime Commission that an Assistant District Attorney was present during the hearing and failed to object on the record. Even if true, there is no indication that the Assistant District Attorney was aware that Porteous was the recipient of a stream of things of value from the Marcottes, all of which the Marcottes claim they provided with the specific intent to influence Judge Porteous.

Although the Marcottes have made many allegations of improprieties involving Judge Porteous, they have pleaded guilty to charges of extensive fraudulent conduct. They also admit that they never obtained an explicit agreement with Judge Porteous that he would grant bond requests in exchange for favors. They claim instead that the agreement was implicit in the

relationship, and that the Judge knew very well why they lavished him and his long-time secretary with food, drinks, trips, favors, and other things of value.

VI. Further Circumstantial Evidence that Judge Porteous Engaged in Corrupt Activities

The investigation has uncovered large amounts of unexplained cash being deposited in Judge Porteous's accounts. Financial records reveal that Judge Porteous deposited more than \$57,000 in cash into his checking account between 1998 and 2000. Additional records received from Fidelity Homestead Association show that five separate deposits of currency totaling approximately \$20,000 were also made into the Judge's money market account from 1998 to early 2000. This account was not reported on Judge Porteous's bankruptcy petition. In addition, one of the deposits, made two days after Judge Porteous returned from his Las Vegas trip, was in the amount of \$5,000, roughly the amount he withdrew over the "bachelor party" weekend, despite casino records that estimated a \$1,200 loss during that trip.

In addition, the investigation has revealed that Judge Porteous's secretary, Rhorida Danos, paid for many of his expenses from her own bank account. While Judge Porteous did write checks to her, the FBI was not able to establish that he fully reimbursed her. In 1999 and 2000, for example, Danos paid \$41,621.15 for credit card bills and other expenses for Judge Porteous; during the same period, she received \$32,554.51 in checks from him. Over the same two year period, Danos also made \$60,027.80 in cash deposits, a greater sum than her payroll and other sources of income for the same period. Focusing on year 1999 in particular, her financial records indicate that she may have received as much as thirty to forty thousand dollars in unexplained deposits. In addition, in her testimony about her 1999 financial activities, Danos could not account for nearly ten thousand dollars in excess of her admitted sources of income that year, even giving her the benefit of dubious, post-hoc explanations for some sources of funds. Together, these facts evidence that Danos -- on whom Judge Porteous relied for payment of many of his own expenses -- received additional, unexplained cash during the period that the judgement in Liljeberg was pending. Indeed, the Marcottes stated in interviews with the FBI that Danos was used specifically to disguise their payments in connection with the 1992 trip to Las Vegas for Judge Porteous.

VII. Evidence that Judge Porteous Is Incompetent to Serve

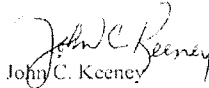
During the course of this investigation the Department has learned that Judge Porteous has obtained the reports of medical examiners concluding that he is incompetent to render decisions as a federal judge because of permanent mental and psychological impairments. In correspondence with Your Honor, Judge Porteous stated that he believes he no longer can meet the responsibilities that fall to him as a judge, and that the reports of a psychologist and psychiatrist confirm that every day he sits on the bench is a disservice to his fellow judges, to the parties who appear before him, and to the people of this country who put their trust in the judiciary. This mental impairment follows a history of alcoholism and reckless gambling, demonstrated in financial records and attested to by witnesses with whom he has had personal relationships. Therefore, in addition to the many allegations of judicial misconduct recited above, Judge Porteous's self-professed inability to render competent and fair decisions as a federal judge and the chronicle of his reckless and dishonorable personal behavior while on the

federal bench also serve as a basis for possible disciplinary action by the Court or referral to Congress for impeachment.

CONCLUSION

As noted earlier, issues of statute of limitations, the materiality of the alleged false statements, the government's twin burdens of proof and unanimity at trial, and the availability of alternative remedies persuaded the Department that criminal prosecution was not warranted. The results of the FBI's investigation into allegations of misconduct concerning Judge Porteous, however, raise serious doubts about his suitability for office under the constitutional standard of good behavior on which that service is contingent. The instances of Judge Porteous's dishonesty in his own sworn statements and court filings, his decade-long course of conduct in soliciting and accepting a stream of payments and gifts from litigants and lawyers with matters before him, and his repeated failures to disclose those dealings to interested parties and the Court all render him unfit as an Article III judge. Based on the evidence of pervasive misconduct described herein, the Department respectfully submits this complaint for any further action Your Honor may deem warranted.

Sincerely,

A handwritten signature in dark ink, reading "John C. Keeney". The signature is fluid and cursive, with the first name "John" and last name "Keeney" clearly legible.

John C. Keeney  
Deputy Assistant Attorney General  
Criminal Division  
United States Department of Justice

# In The Senate of the United States

Sitting as a Court of Impeachment

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In re:	)
Impeachment of G. Thomas Porteous, Jr.,	)
United States District Judge for the	)
Eastern District of Louisiana	)

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**THE HOUSE OF REPRESENTATIVES'**  
**RESPONSE TO JUDGE G. THOMAS PORTEOUS JR.'S MOTION FOR SUBPOENAS**  
**TO BE ISSUED TO DEPARTMENT OF JUSTICE ATTORNEYS**

The House of Representatives (the "House") respectfully submits the following response to Judge Porteous's Jr., Motion for Subpoenas to be Issued to Department of Justice Attorneys ("Motion").

In his pleadings dated June 8, 2010, and August 5, 2010, Judge Porteous identified Department of Justice (the "Department" or "DOJ") attorneys Peter Ainsworth and Daniel Petalas as potential witnesses.<sup>1</sup> The Senate Impeachment Trial Committee ("SITC"), in deciding the pre-trial motions, declined to issue subpoenas to those two individuals requiring their appearance at trial. Judge Porteous has since renewed his request by way of his Motion, and, in his pre-trial statement, has indicated that he now seeks only the testimony of Mr. Petalas.

The House respectfully suggests that Judge Porteous's Motion fails to provide grounds for the SITC to revisit, let alone reverse, its decision declining to issue subpoenas for DOJ

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<sup>1</sup>See Judge G. Thomas Porteous, Jr. Preliminary Designation of Witnesses, Request for Subpoenas, Related Funding and Immunity Orders, and Response Addressing Stipulations Related to Articles I, III, and IV (June 8, 2010) at 2; Judge G. Thomas Porteous, Jr.'s Witness List (August 5, 2010) at 2.

personnel. In particular, Judge Porteous has failed to establish that testimony from a DOJ attorney would be relevant to any issue in this impeachment. In sum: 1) Judge Porteous has made no showing that any DOJ prosecutor had first hand knowledge of the actual events alleged in the Articles; 2) the conduct and standards for impeachment are different than the offenses and standards for criminal prosecution; 3) the evidence to be introduced in the impeachment proceeding is different than the evidence considered by the Department in 2007; and, 4) the presence of a DOJ employee as a witness will necessarily raise complicated separation of powers, deliberative privilege and attorney-client privilege issues.

First and foremost, the record in this impeachment consists of the evidence that the House will present to the SITC and, through the SITC to the full Senate. The opinion of any individual person within DOJ that purports to “analyze”<sup>2</sup> that evidence usurps the role of the Senate. Neither Mr. Petalas nor other representatives of the Department can render an “expert” opinion as to what the evidence shows or whether the evidence supports Judge Porteous’s conviction on the Articles.

Indeed, the crux of Judge Porteous’s Motion is his desire to explore with Department personnel why it did not criminally prosecute Judge Porteous. However, whether the evidence in DOJ’s possession in 2007 supported a criminal prosecution is irrelevant to the decision whether the evidence presented to the Senate in 2010 warrants Judge Porteous’s impeachment.<sup>3</sup> Further,

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<sup>2</sup>Judge Porteous’s proffer suggests that the testimony of a DOJ attorney “could be critical in analyzing the strength of the evidence underlying the Articles of Impeachment, ...” Judge Porteous’s Motion at 1.

<sup>3</sup>As but one example, the House has evidence, including Judge Porteous’s Fifth Circuit testimony, that was not available to DOJ prosecutors. Further, the House has brought Articles based on conduct which DOJ did not investigate.



the Department's institutional conclusion that the evidence did not support a criminal prosecution was made known in its letter to the Fifth Circuit making a complaint about Judge Porteous. Judge Porteous has stipulated to the letter's authenticity, and has relied on this letter in his pleadings. Mr. Petalas's, or any other DOJ attorney's personal opinion – whether in support of or in opposition to prosecution, or as to how he personally viewed the evidence – is hardly relevant to the Senate.

Judge Porteous has suggested that DOJ prosecutors may be fact witnesses arising from their participation in some witness interviews. In support of this contention, Judge Porteous has attached various FBI write-ups of witness interviews that reflect the presence of DOJ prosecutors. However, there is no evidence that any DOJ prosecutor participated in any witness interview at which FBI Agents were not present. Indeed, DOJ prosecutors are exceptionally careful not to conduct interviews without law enforcement agents being present, precisely to avoid being later called as witnesses. If Judge Porteous seeks to call a witness to complete the impeachment of a witness based on an FBI write-up of that witness's statement, Judge Porteous should call the FBI Agent who was present and did the write-up of the interview. There is no need for him to call the line prosecutor who was also present. Judge Porteous has made no other proffer or suggestion as to any other first-hand knowledge of a DOJ prosecutor of any fact alleged in the Articles for which that prosecutor's testimony would be necessary.<sup>4</sup>

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<sup>4</sup>In contrast, Mr. Goyeneche of the Metropolitan Crime Commission interviewed Judge Porteous and will testify about that conversation. Mr. Petalas's role as a potential witness is hardly comparable to Mr. Goyeneche's, and Judge Porteous's assertion that "Messrs. Petalas and Ainsworth are being called for many of the same reasons as Goyeneche," Motion at 5, is clearly not the case.

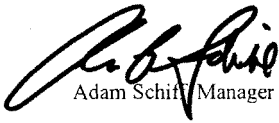
The House stresses that in opposing Judge Porteous's motion it does not seek to limit the factual theories that Judge Porteous may pursue in his defense (so long as they are bounded by relevance to the Articles). However, the House does have a vital interest in the smooth functioning of the trial and an interest that the trial not be side-tracked on tangential and irrelevant issues. In this regard, the House recognizes that the Department is certain to have profound concerns in protecting internal deliberations and the thought-processes of its decision-makers, particularly in connection with the Department's decisions whether to bring criminal charges. Subjecting prosecutors to examination on those decisions inherently raises significant separation of powers concerns as well as significant "deliberative privilege" and related attorney-client privilege legal issues. Especially where the testimony at issue is not pertinent to the factual issues, the House believes that, the SITC should not require DOJ attorneys to testify. Certainly, Judge Porteous has failed to demonstrate a "compelling need" for such testimony – the standard he has set himself.

Thus, 1) when there is no showing that any DOJ prosecutor had first-hand knowledge of the actual events alleged in the Articles; 2) where the conduct and standards for impeachment are different than the offenses and standards for criminal prosecution; 3) where the evidence to be introduced in the impeachment proceeding is different than the evidence considered by the Department in 2007; and, 4) where the witness's presence will necessarily raise complicated separation of powers, deliberative privilege and attorney-client privilege issues, it is the House's view that Judge Porteous has not demonstrated that the SITC should revisit or reverse its decision declining to issue subpoenas to DOJ attorneys.

WHEREFORE, we request that Judge Porteous's Motion be Denied.

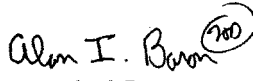
Respectfully submitted,

THE UNITED STATES HOUSE OF REPRESENTATIVES

  
Adam Schiff, Manager

By

  
Bob Goodlatte, Manager

  
Alan I. Baron  
Special Impeachment Counsel

Managers of the House of Representatives: Adam B. Schiff, Bob Goodlatte, Zoe Lofgren, Henry C. "Hank" Johnson, F. James Sensenbrenner, Jr.

September 8, 2010



U.S. Department of Justice  
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 3 2010

The Honorable Claire McCaskill  
Chairman  
The Honorable Orrin G. Hatch  
Vice Chairman  
Senate Impeachment Trial Committee  
United States Senate  
Washington, D.C. 20510

Dear Madam Chairman and Mr. Vice Chairman:

This responds to your letter, dated August 25, 2010, regarding a request by Judge G. Thomas Porteous, Jr., for the Committee's assistance in obtaining materials from the Department of Justice in connection with the Senate impeachment trial proceedings against him.

In response to request number four of your letter, enclosed is a revised version of the FBI 302, dated December 18, 2002, regarding the interview of Mr. Norman Stotts, which contains more limited redactions as described in the enclosed redaction code sheet. While the document still bears very limited redactions of information that implicates individual privacy interests, text reporting Mr. Stotts' comments about Louis Marcotte and Lori Marcotte has been largely restored because they are listed as witnesses in the pending impeachment proceedings. We do not believe that the remaining, minimal redactions will interfere in any meaningful way with a clear understanding of Mr. Stotts' statements during this interview. We continue to work on responding to the other requests for information set forth in your August 25, 2010, letter, but want to provide you with the enclosed documents in the interim.

We hope this information is helpful. Please do not hesitate to contact us if we may provide additional assistance with this, or any other matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ronald Weich", is written over a light blue horizontal line.

Ronald Weich  
Assistant Attorney General

Enclosure

**U.S. Department of Justice**

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

September 7, 2010

The Honorable Claire McCaskill  
Chairman  
The Honorable Orrin G. Hatch  
Vice Chairman  
Senate Impeachment Trial Committee  
United States Senate  
Washington, D.C. 20510

Dear Madam Chairman and Mr. Vice Chairman:

This supplements our prior response to your letter, dated August 25, 2010, regarding a request by Judge G. Thomas Porteous, Jr., for the Committee's assistance in obtaining materials from the Department of Justice in connection with the Senate impeachment trial proceedings against him.

Enclosed are 860 pages of documents responsive to items 10-16, and 18 of your letter, regarding grand jury materials from the Department's investigation of Judge Porteous, plus an application for an order authorizing Title III electronic surveillance of various telephone lines a supporting affidavit, and resulting court orders from the Wrinkled Robe investigation. These documents are under seal, and pursuant to Federal Rule of Criminal Procedure 6(e), and Title 18, United States Code, Section 2317, could not be released to you without a court order.

On September 3, 2010, upon motion by the Department of Justice, the United States District Court for the Eastern District of Louisiana, modified the sealing orders to permit this disclosure. The District Court's September 3, 2010, orders, which are themselves under seal, permit the Department to disclose: 1) records and other material related to matters occurring before the grand jury in the investigation of G. Thomas Porteous, Jr., and related investigations described in prior disclosure orders by the court, to authorized personnel of the United States Senate in support of any congressional impeachment proceedings concerning Judge G. Thomas Porteous, Jr.; and 2) the application for Title III electronic surveillance, the supporting affidavit, and resulting court orders, dated on or about August 27, 2001, from the Wrinkled Robe investigation. However, in modifying the sealing orders on these materials, the District Court prohibits recipients of the Title III surveillance material and grand jury testimony from using the material for any purpose other than in connection with the impeachment proceedings and the defense of Judge Porteous to the articles of impeachment against him. The District Court's order

The Honorable Claire McCaskill  
The Honorable Orrin G. Hatch  
Page Two

further prohibits recipients of the Title III electronic surveillance materials from disclosing the contents of the material to third parties, and orders that recipients shall take all necessary and appropriate measures to protect against their inadvertent disclosure to anyone other than their counsel, investigators, staff members, and other personnel directly involved in the impeachment proceedings.

The enclosed documents bear limited redactions of personal information, such as social security numbers, credit card numbers, home addresses, and other limited information implicating individual privacy interests. Our efforts to respond to other items set forth in your letter are continuing, but we wanted to provide you with the enclosed documents as soon as possible.

We hope this information is helpful. Please do not hesitate to contact us if we may provide additional assistance with this, or any other matter.

Sincerely,

  
for Ronald Weich  
Assistant Attorney General

Enclosures



**U.S. Department of Justice**  
**Office of Legislative Affairs**

Office of the Assistant Attorney General

Washington, D.C. 20530

September 8, 2010

The Honorable Claire McCaskill  
Chairman  
The Honorable Orrin G. Hatch  
Vice Chairman  
Senate Impeachment Trial Committee  
United States Senate  
Washington, D.C. 20510

Dear Madam Chairman and Mr. Vice Chairman:

This supplements our prior response to your letter, dated August 25, 2010, regarding a request by Judge G. Thomas Porteous, Jr., for the Committee's assistance in obtaining materials from the Department in connection with the Senate impeachment trial proceedings against him.

Enclosed are 360 pages of documents responsive to items 17 and 19 of your letter regarding grand jury materials from the Department's investigation of Judge Porteous. These documents are under seal, and pursuant to Federal Rule of Criminal Procedure 6(e) could not be released to you without a court order.


As we explained in our letter of September 7, 2010, upon our motion, the United States District Court for the Eastern District of Louisiana modified the sealing orders to permit this disclosure, and limited the recipients of the materials from using the material for any purpose other than in connection with the impeachment proceedings and Judge Porteous's defense to the articles of impeachment against him. For your convenience, enclosed is a copy of our letter of September 7, 2010, which sets forth the terms and limitations of the district court's order, which itself is under seal.

The enclosed documents bear limited redactions of personal information, such as social security numbers, credit card numbers, home addresses, and other limited information implicating individual privacy interests. We continue to work on responding to the other requests for information set forth in your August 25, 2010, letter, but want to provide you with the enclosed documents as soon as possible.

The Honorable Claire McCaskill  
The Honorable Orrin G. Hatch  
Page Two

We hope this information is helpful. Please do not hesitate to contact us if we may provide additional assistance with this, or any other matter.

Sincerely,

A handwritten signature in cursive script that reads "M. Kirk Burton for".

Ronald Weich  
Assistant Attorney General

Enclosures





## U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

September 10, 2010

The Honorable Claire McCaskill  
Chairman  
The Honorable Orrin G. Hatch  
Vice Chairman  
Senate Impeachment Trial Committee  
United States Senate  
Washington, D.C. 20510

Dear Madam Chairman and Mr. Vice Chairman:

This supplements our prior responses to your letter, dated August 25, 2010, regarding a request by Judge G. Thomas Porteous, Jr., for the Committee's assistance in obtaining materials from the Department of Justice in connection with the Senate impeachment trial proceedings against him.

Enclosed are 79 pages of documents responsive to item 1 of your letter, regarding FBI 302s generated in the Department's investigation of Judge Porteous. These documents pertain to the interviews of individuals who have been identified as witnesses in these proceedings, none of whom requested confidentiality at the time of their interviews. They bear limited redactions of personal information, such as social security numbers, home addresses, and other limited information implicating individual privacy interests. Our efforts to respond to other items set forth in your letter are continuing, but we wanted to provide you with the enclosed documents as soon as possible.

We hope this information is helpful. Please do not hesitate to contact us if we may provide additional assistance with this, or any other matter.

Sincerely,

A handwritten signature in cursive script, reading "M. Jack Burton".

Ronald Weich  
Assistant Attorney General



**U.S. Department of Justice**  
**Office of Legislative Affairs**

Office of the Assistant Attorney General

*Washington, D.C. 20530*

September 10, 2010

The Honorable Claire McCaskill  
Chairman  
The Honorable Orrin G. Hatch  
Vice Chairman  
Senate Impeachment Trial Committee  
United States Senate  
Washington, D.C. 20510

Dear Madam Chairman and Mr. Vice Chairman:

This supplements our prior responses to your letter, dated August 25, 2010, regarding a request by Judge G. Thomas Porteous, Jr., for the Committee's assistance in obtaining materials from the Department in connection with the Senate impeachment trial proceedings against him.

Enclosed are an addition 88 pages of documents responsive to item 8 of your letter regarding grand jury materials from the Department's investigation of Judge Porteous. These documents are under seal, and pursuant to Federal Rule of Criminal Procedure 6(e) could not be released to you without a court order.

As we explained in our letter of September 7, 2010, upon our motion, the United States District Court for the Eastern District of Louisiana modified the sealing orders to permit this disclosure, and limited the recipients of the materials from using the material for any purpose other than in connection with the impeachment proceedings and Judge Porteous's defense to the articles of impeachment against him. For your convenience, enclosed is a copy of our letter of September 7, 2010, which sets forth the terms and limitations of the District Court's Order, which itself is under seal. There are no redactions in this document.

We continue to work on responding to the other requests for information set forth in your August 25, 2010, letter, but want to provide you with the enclosed documents as soon as possible.

The Honorable Claire McCaskill  
The Honorable Orrin G. Hatch  
Page Two

We hope this information is helpful. Please do not hesitate to contact us if we may provide additional assistance with this, or any other matter.

Sincerely,

A handwritten signature in cursive script that reads "M. Keith Burton for".

Ronald Weich  
Assistant Attorney General

Enclosure



## U.S. Department of Justice

## Office of Legislative Affairs

---

Office of the Assistant Attorney General

Washington, D.C. 20530

September 10, 2010

The Honorable Claire McCaskill  
Chairman  
The Honorable Orrin G. Hatch  
Vice Chairman  
Senate Impeachment Trial Committee  
United States Senate  
Washington, DC 20510

Dear Madam Chairman and Mr. Vice Chairman:

This is to clarify the information set forth in our letter, dated September 7, 2010, regarding the scope of the District Court Orders, dated September 3, 2010, which authorized us to provide your Committee with 1) records and other material related to matters occurring before the grand jury in the investigation of G. Thomas Porteous, Jr., and related investigations described in prior disclosure orders; and 2) the application for Title III electronic surveillance, the supporting affidavit, and resulting court orders, dated on or about August 27, 2001, from the Wrinkled Robe investigation. As you know, these Orders, which modify previous court orders relating to these materials, are themselves under seal.

The Orders, dated September 3, 2010, permit the Department to disclose these materials to your Committee for use in the impeachment proceedings. The Order authorizing our disclosure to you of all records and other material relating to the grand jury investigations places no limitations on the manner in which they may be used in the congressional impeachment proceedings pertaining to Judge Porteous, including the public trial in the Senate. See Fed. R. Crim. P. 6(e)(3)(E).

The Order regarding the Title III electronic surveillance material authorizes our disclosure to the Senate Impeachment Trial Committee and to Judge Porteous, including counsel and staff for the Committee and the parties, for the impeachment proceedings and Judge Porteous's defense to the Articles of Impeachment against him and not for any other purpose. That Order further provides that the recipients of the Title III electronic surveillance materials shall not disclose their contents to third parties and also requires that recipients take all necessary and appropriate measures to protect against their inadvertent disclosure to others.

As we have previously advised Committee staff, the Title III electronic surveillance materials contain information that implicates significant individual privacy interests. Those

The Honorable Clair McCaskill  
The Honorable Orrin G. Hatch  
Page Two

materials have been provided in redacted form to the House and we request that the Committee consider whether, with due regard to the fairness to all parties involved, the redacted form of the materials can be used in the public proceedings relating to this matter. We are prepared to confer with you further about appropriate redactions if that would be helpful.

We request that you advise Judge Porteous of the contents of these Orders in connection with your disclosures of any of these materials that you deem appropriate. We hope that this information is helpful. Please do not hesitate to contact this office if you would like assistance on any other matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "M. Keith Burton for", written in dark ink.

Ronald Weich  
Assistant Attorney General



U.S. Department of Justice  
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

September 12, 2010

The Honorable Claire McCaskill  
Chairman  
The Honorable Orrin G. Hatch  
Vice Chairman  
Impeachment Trial Committee  
United States Senate  
Washington, D.C. 20510

Dear Madam Chairman and Vice Chairman:

This supplements our previous responses to your letter, dated August 25, 2010, regarding a request by Judge G. Thomas Porteous, Jr., for the Committee's assistance in obtaining materials from the Department of Justice in connection with the Senate impeachment trial proceedings against him.

As you know, the Department has already produced documents responsive to your letter on several occasions, in addition to those we are producing today. While our public disclosure of these records might be prohibited by the Privacy Act, we have provided them to the Committee in response to your request and pursuant to 5 U.S.C. 552a(b)(9). Nonetheless and as we have discussed with your staff, many of these documents implicate significant individual privacy interests and, accordingly, we request that you treat them with appropriate sensitivity. If you would like assistance in redacting particular documents for use in the impeachments proceedings in order to protect those privacy interests, please let us know.

1. The FBI has processed the 302s from our investigations of Judge Porteous, notwithstanding our view that all of those that are relevant to the impeachment proceedings have already been produced. Consistent with our conversations with your staff, the FBI prioritized its efforts by re-processing all 302s of individuals who have been identified by the parties as witnesses in the impeachment proceedings, none of whom asked the FBI to protect the confidentiality of their interviews, and those 79 pages were produced to you on September 10, 2010. An additional 103 pages were produced to you on September 11, 2010, and an additional 147 pages have been produced to you today.
2. As you know from our letter, dated June 25, 2009, to House Judiciary Committee Chairman Conyers, the 309 pages of documents we produced pertaining to the Senate confirmation of Judge Porteous bear very limited redactions of personal information,

The Honorable Claire McCaskill

The Honorable Orrin G. Hatch

Page 2

such as phone numbers, social security numbers, and the names of law enforcement personnel, as well as text that would identify individuals who specifically asked the FBI to protect their identities. These redactions are consistent with the FBI's long-standing practice of protecting the identities of individuals who provide information to the Bureau based upon an express promise of confidentiality. Disclosure of information that would reveal their identities also would discourage such individuals from cooperating with our law enforcement efforts in the future. We have reviewed these documents to restore other text and seven pages of reprocessed documents have been delivered to your today. If you believe there is particular information in a specific redaction that you consider to be necessary to the impeachments proceedings, please let us know.

3. As you know, the individual whose interview is set forth in the document labeled PORT000000721 notified the FBI that he no longer wanted the FBI to protect his identity and an unredacted version of that document was produced to the Committee in pdf format on September 9, 2010.
4. In response to your request, a revised version of the FBI 302, dated December 18, 2002, regarding the interview of Mr. Norman Stotts, which contained more limited redactions was produced to the Committee on September 3, 2010. While the document still bears very limited redactions of information that implicates individual privacy interests, text reporting Mr. Stotts' comments about the Marcottes has been largely restored because we understand that they are listed as witnesses in the pending impeachment proceedings. We do not believe that the remaining, minimal redactions will interfere in any meaningful way with a clear understanding of Mr. Stotts' statements during this interview. Please let us know if you need additional information about it.
5. The FBI reviewed again the documents from this 22 page collection, pertaining to Judge Porteous's compliance with a bankruptcy order and, as a result, two additional pages have been delivered to the Committee today. These reprocessed pages bear very limited redactions of non-substantive information, namely the file number and the identity of a law enforcement officer. There were minimal redactions in the versions of some of the remaining documents in this collection, which we provided to the House Judiciary Committee on October 23, 2009. The FBI has advised that no additional text can be provided from the remaining documents without revealing the identity of an individual whose cooperation with the FBI was based upon an express promise of confidentiality.
6. The Department has substantial confidentiality interests in its internal memoranda pertaining to decisions about whether or not to seek indictments or otherwise undertake criminal proceedings. The confidentiality of these documents is important

The Honorable Claire McCaskill  
 The Honorable Orrin G. Hatch  
 Page 3

to fostering the candid internal debate that we believe is essential to sound prosecutorial decision-making. Moreover, information about the rationale for the Department's decision not to prosecute Judge Porteous is set forth in our letter, dated May 18, 2007, to Chief Judge Edith H. Jones of the U.S. Court of Appeals for the Fifth Circuit, a copy of which has been provided to the Committee and to Judge Porteous. In fact, we believe that all of the factual information developed in our investigations of Judge Porteous has been made available to him.

We also note the disclosure of this type of document in the Nixon impeachment proceedings twenty-one years ago was made under very different circumstances. Unlike Judge Porteous, Judge Nixon was prosecuted and convicted. The impeachment proceedings flowed directly from that successful prosecution, and the Senate Impeachment Committee decided that it would hear evidence on Judge Nixon's claim that the Department's "investigations were conducted in a manner intended to mislead a court or trier of fact as to Judge Nixon's guilt or innocence." Letter to John C. Keeney, Deputy Assistant Attorney General, Criminal Division, Department of Justice from Senator Wyche Fowler, Jr., Chairman Senate Impeachment Committee (July 18, 1989). No such allegations have been or could be made in this matter since the Department never prosecuted Judge Porteous.

Moreover, the Department has produced extensive records relating to its investigation of Judge Porteous, even including grand jury materials, which Senator Fowler specifically excluded from his request. As a result, the Committee and the parties have a comprehensive factual record with which to evaluate Judge Porteous's conduct and the Articles of Impeachment pending against him. The burden of proving a criminal case beyond a reasonable doubt to a unanimous jury also distinguishes the Department's decision from the matters pending before the Senate in this trial, where a different standard applies. Accordingly, the Department's internal deliberative documents regarding whether or not to prosecute Judge Porteous have no bearing on the Senate proceedings and, consistent with our significant confidentiality interests and long-standing policy, we must respectfully decline to produce them.

7. Please see our response to item 6 above.
8. We believe that all of the Grand Jury transcripts have been produced pursuant to orders obtained by the Department or the House Judiciary Committee (House Committee). The order obtained by the House Committee authorized us to disclose transcripts only to that Committee, but it did not impose any limitations that would prohibit the Committee's disclosure of the transcripts to Judge Porteous or to the Senate. While we are advised by the House Committee that these materials have been previously provided to you and Judge Porteous, we obtained an Order, dated September 3, 2010, in response to your request, which authorized our disclosure to



The Honorable Claire McCaskill  
 The Honorable Orrin G. Hatch  
 Page 4

you of the same transcripts for use in the impeachment proceedings. Please see our letters to you, dated September 7, 2010 and September 10, 2010, regarding these matters. We have identified only one transcript from the Department's investigation of Judge Porteous that was not included on your list; it is the transcript of Debra Mull, dated June 30, 2006. That document, which totaled 128 pages, was provided to you on September 10, 2010.

9. As we have previously advised your staff, the FBI has advised that there were no 302s generated for Robert Rees or Bruce Netterville in either the Wrinkled Robe or Judge Porteous investigations.
10. On September 7, 2010, we provided you with an unredacted version of the Affidavit in Support of the Title III wiretap interception application, dated August 27, 2001, and the related Court order in the Wrinkled Robe investigation. As you know, we provided these documents in accordance with the court orders that we obtained, in response to the Committee's request, which modify pre-existing orders sealing these documents. The terms of the modifying orders, which are themselves under seal and dated September 3, 2010, are set forth in our letters to the Committee, dated September 7, September 8, and September 10, 2010.

Judge Porteous was not the subject or target of any Title III wiretap in the Wrinkled Robe investigation and the redacted versions of these materials include all sections relating to Judge Porteous as well as a significant additional portion of materials that place Bail Bonds Unlimited's corrupt scheme to "split" bonds in context. The remaining sections of the affidavit are unrelated to Judge Porteous and, instead, pertain to conduct of other individuals that occurred years after Judge Porteous left the state bench. These individuals, including numerous public officials, were investigated but not prosecuted due to the insufficiency of the evidence and some of them may not be aware that they were within the purview of this investigation. In our view, the unredacted versions of these documents implicate significant privacy and due process interests of these individuals. Consequently, and separate and apart from the terms of the court orders of September 3, 2010, we request that the Committee use redacted versions of these materials in the public proceedings to the extent consistent with the fairness to all parties. We are available to confer further with staff if that would be helpful.

11. Please see our response to item 10 above.
12. The Department has produced grand jury materials responsive to this item, as well as those responsive to items 13 - 19, pursuant to an Order, dated August 5, 2009, which permitted us to disclose them to "authorized personnel of the House of Representatives who are working on the impeachment inquiry of Judge G. Thomas

The Honorable Claire McCaskill  
The Honorable Orrin G. Hatch  
Page 5

Porteous, Jr." In addition and in response to your request, we obtained a court order, dated September 3, 2010, authorizing our disclosure of materials responsive to this item, as well as those responsive to items 13 -19, and those materials were provided to the Committee with our letters, dated September 7, and September 8, 2010, in addition to our letter, dated September 10, 2010, which clarified the pertinent court order.

13. Please see our response to item 12 above.
14. Please see our response to item 12 above.
15. Please see our response to item 12 above.
16. Please see our response to item 12 above.
17. Please also see our response to item 12 above.
18. Please see our response to item 12 above.
19. Please see our response to item 12 above.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this, or any other matter.

Sincerely,



Ronald Weich  
Assistant Attorney General



**U.S. Department of Justice**  
**Office of Legislative Affairs**

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Office of the Assistant Attorney General

Washington, D.C. 20530

September 20, 2010

The Honorable Claire McCaskill  
Chairman  
The Honorable Orrin G. Hatch  
Vice Chairman  
Senate Impeachment Trial Committee  
United States Senate  
Washington, DC 20510

Dear Madam Chairman and Mr. Vice Chairman:

This follows up on requests from your staff on September 20, 2010, and our previous responses to your letter, dated August 25, 2010, which requested documents relevant to the pending impeachment proceedings against Judge G. Thomas Porteous, Jr. We understand that you are seeking a small number of new and previously produced FBI reports of interviews (302s), with reduced redactions of information about third parties, in connection with the continuing Senate trial.

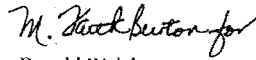
Enclosed are 38 pages, which contain reduced redactions to protect individual privacy interests. While our public disclosure of these records might be prohibited by the Privacy Act, we are providing them in response to your request and pursuant to 5 U.S.C. 552a(b)(9). Nonetheless and as we have discussed with your staff, many of these documents implicate significant individual privacy interests and, accordingly, we request that you treat them with appropriate sensitivity. If you would like assistance in redacting particular documents for use in the impeachment proceedings in order to protect those privacy interests, please let us know.

Some of the information set forth in these records may include grand jury materials and materials pertaining to the Title III electronic surveillance used in the Wrinkled Robe investigation. As you may recall, in response to your request, we obtained certain court orders, dated September 3, 2010, which modified previous court orders relating to these materials. The terms of these orders, which are themselves under seal, are set forth in our letters to you, dated September 7, 2010, and September 10, 2010. We request that you refer to those letters and advise the parties about the terms with regard to your disclosures to them of any of these materials.

The Honorable Clair McCaskill  
The Honorable Orrin G. Hatch  
Page Two

We hope that this information is helpful. Please do not hesitate to contact this office if you would like assistance on any other matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "M. Keith Burton for".

Ronald Weich  
Assistant Attorney General



**U.S. Department of Justice**  
Office of Legislative Affairs

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Office of the Assistant Attorney General

Washington, D.C. 20530

OCT 29 2010

The Honorable Claire McCaskill  
Chairman  
The Honorable Orrin G. Hatch  
Vice Chairman  
Senate Impeachment Trial Committee  
United States Senate  
Washington, D.C. 20510

Dear Madam Chairman and Mr. Vice Chairman:

This follows up on requests from your staff on September 20, 2010, and our previous responses to your letter, dated August 25, 2010, which requested documents relevant to the impeachment proceedings against Judge G. Thomas Porteous, Jr. We understand that you are seeking a few FBI reports of interviews (302s) of third parties which were not previously produced in connection with the Senate impeachment proceedings.

Enclosed are 10 pages of documents responsive to your request. While our public disclosure of these records might be prohibited by the Privacy Act, we are providing them in response to your request and pursuant to 5 U.S.C. 552a(b)(9). Nonetheless, these records implicate substantial individual privacy interests and, accordingly, we request that you treat them with appropriate sensitivity. The enclosed documents bear limited redactions of personal information, such as non-public telephone numbers. Similarly, we have also redacted the names and personal information related to law enforcement personnel.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this, or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "mch", is written over the typed name of Ronald Weich.

Ronald Weich  
Assistant Attorney General

Enclosures